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CHAPTER NO. 270

[HB 391]

AN ACT REVISING ALCOHOL LAWS TO PROVIDE THAT A LICENSEE MAY COMPENSATE A CONCESSIONAIRE BASED ON A PERCENTAGE OF GROSS OR NET ALCOHOLIC BEVERAGE SALES; AND AMENDING SECTION 16-4-418, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 16-4-418, MCA, is amended to read:

“16-4-418. Concession agreements. (1) Except for entities licensed under 16-4-105(1)(e) or 16-4-201(8) on or after January 1, 2021, the department may allow entities licensed under 16-4-105 or 16-4-201 to enter into concession agreements with unlicensed entities to serve alcoholic beverages. A licensee may enter into a maximum of three concession agreements for each license at any given time.

(2) To be considered for approval, a concession agreement must:

(a) demonstrate that the licensed premises is a contiguous premises that includes the space utilized by the concessionaire; and

(b) provide that the licensee retains ultimate control over and responsibility for operating the license, including:

(i) the ordering, purchase, sale, and service of alcoholic beverages;

(ii) the right to discipline or otherwise sanction any employee in relation to the service of alcoholic beverages;

(iii) reconciling the proceeds of alcoholic beverage sales at least monthly;

(iv) terminating the concession agreement with cause where cause includes but is not limited to any violation of Title 16 and the sale or transfer of the license; and

(v) the exclusive operation of all gaming activities if the licensee offers any gaming.

(3) A licensee's gaming endorsement may not be extended through a concession agreement.

(4) Nothing in this section precludes a licensee and a concessionaire from sharing employees.

(5) A licensee may enter into a management agreement to satisfy the provisions of subsection (2)(b).

(6) (a) The licensee may compensate the concessionaire for the sale of alcoholic beverages based only on one of the following or a combination of the following considerations:

(i) a percentage of gross or net alcoholic beverage sales;

(ii) a percentage of employee overhead; and

(iii) a fixed dollar amount to be negotiated by the parties.

(b) If the licensee and concessionaire change the structure of the compensation arrangement, the department must be provided with a copy of the amended compensation arrangement but does not have the ability to deny the amended compensation arrangement as long as it meets the requirements of this section.

(7) (a) Other than changes provided in subsection (6)(b), a licensee shall submit any proposed modification to an existing concession agreement for review and approval by the department. Changes include but are not limited to proposed changes in ownership of the license and the parties of an existing concession agreement choosing to operate under the provisions of this section. The department shall approve or deny the application within 30 business days unless additional information is required. The existing concession agreement

may remain in place pending department approval or denial. An applicant may apply for temporary operating authority pending approval for a change in ownership of a license or to operate under the provisions of this section without terminating an existing concession agreement.

(b) Parties with a concession agreement existing prior to May 14, 2021, that elect to operate under the provisions of this section shall operate under the existing concession agreement pending department approval of the new concession agreement.

(8) A concession agreement does not constitute an ownership interest in the license.

(9) The department shall create a standardized concession agreement that includes only the requirements of this section.

(10) The concessionaire shall pay the department an application fee of \$500 for each new concession agreement or for existing concession agreements that elect to operate under the provisions of this section. The new concession agreement application fee does not apply to modification of existing concession agreements. The annual renewal fee for each concession agreement is \$100.

(11) (a) For the purposes of this section, the term “contiguous premises” means the interior portion of the premises that must be a continuous area under the control of the licensee or the concessionaire and not interrupted by any area in which one of the parties does not have control.

(b) The term includes multiple floors on the premises and common areas necessarily shared by multiple building tenants in order to allow patrons to access other tenant businesses or private dwellings in the same building, including but not limited to entryways, hallways, stairwells, and elevators.”

Approved May 1, 2025

CHAPTER NO. 271

[HB 393]

AN ACT REQUIRING TOWNS TO RECORD THEIR PUBLIC MEETINGS IN AUDIO FORMAT AND MAKE THE RECORDS AVAILABLE ONLINE WITHIN 14 DAYS; AND AMENDING SECTION 2-3-214, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-3-214, MCA, is amended to read:

“2-3-214. Recording of meetings for certain boards. (1) Except as provided in 2-3-203 and subsection (6) of this section, the following boards shall record their public meetings in an audio and video format:

(a) the board of investments provided for in 2-15-1808;

(b) the public employees’ retirement board provided for in 2-15-1009;

(c) the teachers’ retirement board provided for in 2-15-1010;

(d) the board of public education provided for in Article X, section 9, of the Montana constitution;

(e) the board of regents of higher education provided for in Article X, section 9, of the Montana constitution;

(f) except as provided in subsection (7)(a), the governing board of a county provided for in Title 7, chapter 1, part 21;

(g) except as provided in subsection (7)(b), the governing board of a first-class and second-class city provided for in Title 7, chapter 1, part 41;

(h) a first-class or second-class school district board of trustees provided for in Article X, section 8, of the Montana constitution, 20-6-201, and 20-6-301; and

(i) a local board of health provided for in Title 50, chapter 2, part 1.

(2) (a) The boards listed in subsections (1)(a) through (1)(e) shall make the audio and video recordings of meetings under subsection (1) publicly available within 1 business day after the meeting through broadcast on the state government broadcasting service as provided in 5-11-1111 or through publication of streaming audio and video content on the respective board's website.

(b) The boards listed in subsections (1)(f) through (1)(i) shall make the audio and video recordings publicly available within 5 business days after the meeting with a link to the recording on the respective board's website.

(c) *The boards listed in subsection (7) shall make the audio recording publicly available within 14 business days after the meeting with a link to the recording on the respective board's website*

(d) If ~~the~~ a board listed in subsections (1)(f) through (1)(i) and (7) does not maintain a website, it shall maintain a social media page and provide a link to the recording on the social media page.

(e)(e) The department of administration may develop a memorandum of understanding with the legislative services division for broadcasting executive branch content on the state government broadcasting service or live-streaming audio or video executive branch content over the internet.

(3) For the boards listed in subsections (1)(f) through (1)(i) that maintain minutes as required by 2-3-212, the audio and video recordings created pursuant to this section are not required to be the official record of the meeting. If a recording is not designated as the official record, the recording may be destroyed after being retained online for 1 year and is not subject to the requirements of Title 2, chapter 6, for public information requests.

(4) A board is not required to disrupt or reschedule a meeting if there is a technological failure of the meeting recording. If the recording is not able to be made available online, the board shall prominently post a notice in the same manner as a notice of a public meeting and shall post a notice at all locations where the meeting recording links are available. The notice must explain the reason the meeting was not recorded and describe the steps taken to remedy the failure prior to the next meeting.

(5) The requirements of this section apply only when a board is acting on a matter over which the board has supervision, control, jurisdiction, or advisory power at a public meeting as defined in 2-3-202 that has been publicly noticed as required by 2-3-103.

(6) The requirements of this section do not apply to a board listed in subsection (1)(f) when a quorum is incidentally established as described in 7-5-2122(4) and (5) solely on the basis of sharing a common office space.

(7) The following boards must meet the requirements of this section, except that meetings may be recorded, retained, and made available in audio format only:

(a) the governing board of a county with a population of less than 4,500; and

(b) the governing board of a third-class city *or a town with a population greater than 300.*

(8) Expenditures by a school district on staff, consultants, equipment, software licenses, storage, or security made to fulfill the requirements of this section qualify as a school facility project under 20-9-525."

Approved May 1, 2025

CHAPTER NO. 272

[HB 394]

AN ACT REVISING LOCAL GOVERNMENT LAWS; REVISING MUNICIPAL PUBLIC NOTICE AND PUBLIC HEARING REQUIREMENTS; REVISING THE PERIOD OF TIME THAT CERTAIN NOTICES MUST BE POSTED; ALIGNING VARIOUS MUNICIPAL NOTICES WITH APPLICABLE TIME PERIODS; AMENDING THE DATE WHEN CERTAIN RESOLUTIONS MUST BE ADOPTED BY A COUNTY OR MUNICIPALITY; AMENDING THE DEADLINES FOR CERTAIN PUBLIC HEARINGS; AND AMENDING SECTIONS 7-1-4127, 7-12-4179, 7-12-4329, 7-12-4425, 7-12-4426, 15-6-221, 69-7-111, 76-1-602, 76-2-303, 76-2-306, 76-3-503, 76-3-605, 76-3-623, 76-8-107, AND 76-25-307, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-1-4127, MCA, is amended to read:

“7-1-4127. Publication of notice – content – proof. (1) A municipality shall comply with the notice requirements of 2-3-103, including publication of an agenda prior to a meeting.

(2) When a municipality is required to publish notice, publication must be in a newspaper, except that in a municipality with a population of 500 or less, in a municipality in which a newspaper is not published, or in a municipality within a county where a newspaper does not meet the qualifications in subsection (3), publication must be made by posting in three public places in the municipality that have been designated by ordinance, one of which may be the municipality’s website if the municipality has an active website.

(3) The newspaper must:

- (a) be of general circulation;
- (b) be published at least once a week;
- (c) be published in the county where the municipality is located; and
- (d) have, prior to July 1 of each year, submitted to the city clerk a sworn statement that includes:

- (i) circulation for the prior 12 months;
- (ii) a statement of net distribution;
- (iii) itemization of paid circulation and circulation that is free; and
- (iv) the method of distribution.

(4) A newspaper of general circulation does not include a newsletter or other document produced or published by the municipality.

(5) In the case of a contract award, the newspaper must have been published continuously in the county for the 12 months preceding the awarding of the contract.

(6) If a person is required by law or ordinance to pay for publication, the payment must be received before the publication may be made.

(7) ~~(a) The~~ *Unless otherwise provided by law*, notice must be published twice, ~~with at least 6 days separating each publication with the first notice published at least 5 business days before the hearing or action to be taken.~~

(b) When required by law, notice must be published twice, with the first notice published at least 15 business days before the hearing or action to be taken.

(8) The published notice must contain:

- (a) the date, time, and place of the hearing or other action;
- (b) a brief statement of the action to be taken;

(c) the address and telephone number of the person who may be contacted for further information on the action to be taken; and

(d) any other information required by the specific section requiring notice by publication.

(9) A published notice required by law may be supplemented by a radio or television broadcast of the notice in the manner prescribed in 2-3-105 through 2-3-107.

(10) Proof of the publication or posting of any notice may be made by affidavit of the owner, publisher, printer, or clerk of the newspaper or of the person posting the notice.

(11) If the newspaper fails to publish a second notice, the municipality must be considered to have met the requirements of this section as long as the municipality submitted the required information prior to the submission deadline and the notice was posted in three public places in the municipality that were designated by ordinance and, if the municipality has an active website, was posted on the municipality's website at least 6 days prior to the hearing or other action for which notice was required."

Section 2. Section 7-12-4179, MCA, is amended to read:

"7-12-4179. Payment of maintenance costs – resolution for assessment. (1) The cost of maintaining each of the improvements shall be paid by assessing the benefited properties of the district under a permissible assessment option as provided in 7-12-4162 through 7-12-4165.

(2) It is the duty of the council to estimate, as nearly as practicable, the cost of maintaining the improvements in each district for the season. Before the first Monday in ~~September~~ *October* of each year, the council shall pass and finally adopt a resolution levying and assessing all the property within the several districts with an amount equal to the whole cost of maintaining the improvements within the several districts.

(3) The resolution levying assessments to defray the cost of maintenance of the improvement shall be prepared and certified in the same manner as a resolution levying assessments for making improvements in the special improvement district.

(4) The council may change by resolution, not more than once a year, the boundaries of any maintenance district, but the change of boundaries may not affect indebtedness existing at the time of the change."

Section 3. Section 7-12-4329, MCA, is amended to read:

"7-12-4329. Notice of resolution for assessment of installation costs – hearing on resolution. (1) A notice, signed by the city clerk, stating that the resolution levying the assessment to defray the portion of the cost of installing and maintaining the lights and supplying electrical current for the first year as determined by the city or town council is on file in the city clerk's office subject to inspection, must be published as provided in 7-1-4127.

(2) The notice must state the time and place at which objections to the final adoption of the resolution will be heard by the council. ~~The time for the hearing may not be less than 5 days after the final publication of the notice."~~

Section 4. Section 7-12-4425, MCA, is amended to read:

"7-12-4425. Resolution for assessment of costs of maintenance. (1) The city council shall estimate, as near as practicable, the cost of maintenance in each established district annually, not later than the ~~second Monday in August~~ *first Thursday after the first Tuesday in September*. The council shall pass and finally adopt a resolution specifying the district assessment option and levying and assessing all the property within the several districts with an amount equal to not less than 75% of the entire cost of ~~said the maintenance~~ work.

(2) The resolution levying the assessment to defray the cost of maintenance shall contain or refer to a list in which shall be described the lot or parcel of land assessed, ~~with the name of the owner thereof if known, and the amount levied thereon on the lot or parcel of land set opposite.~~

(3) ~~Such~~ The resolution shall be kept on file in the office of the city clerk."

Section 5. Section 7-12-4426, MCA, is amended to read:

7-12-4426. Notice of resolution for assessment. (1) A notice, signed by the city clerk, stating that the resolution levying a special assessment or changing the method of assessment to defray the cost of maintenance in the district or districts is on file in the city clerk's office and subject to inspection, must be published as provided in 7-1-4127.

(2) The notice must state the time and place at which objections to the final adoption of the resolution will be heard by the council and must contain a statement setting out the method of assessment being proposed for adoption or the change in the method of assessment that is being proposed for adoption. ~~The time for the hearing must be at least 5 days after the final publication of the notice.~~

Section 6. Section 15-6-221, MCA, is amended to read:

15-6-221. Exemption for rental housing providing affordable housing to lower-income tenants. (1) That portion of residential rental property that is dedicated to providing affordable housing for lower-income persons is exempt from property taxation in any year that:

(a) (i) the property is owned and operated by an entity, including but not limited to a limited partnership, limited liability company, or limited liability partnership in which a general partner or limited liability company member is a nonprofit corporation exempt from taxation under 26 U.S.C. 501(c)(3), as amended, and incorporated or admitted under a certificate of authority under the Montana Nonprofit Corporation Act as provided in Title 35, chapter 2, or is a housing authority as defined in 7-15-4402 and the nonprofit general partner or limited liability company member actively participates in accordance with the definition found in 26 U.S.C. 469(i). Section 26 U.S.C. 469(i) is applicable without reference to section 26 U.S.C. 469(i)(6).

(ii) the board of housing, established in 2-15-1814, has allocated low-income housing tax credits to the owner under 26 U.S.C. 42;

(iii) a deed restriction or other legally binding instrument restricts the property's usage and provides that the units designated for use by lower-income households must be made available to or occupied by lower-income households for the period required to qualify for low-income housing tax credits at rents that do not exceed those prescribed by the terms of the deed restriction or other legally binding instruments;

(iv) the property meets a public purpose in providing housing to an underserved population; and

(v) the owner's partnership or operating agreement or accompanying document provides that at the end of the compliance period, as that term is defined in 26 U.S.C. 42, the ownership of the property may be transferred to the nonprofit corporation or housing authority general partner or limited liability company member as provided for in 26 U.S.C. 42(i)(7); or

(b) the property is owned and operated by a nonprofit corporation exempt from taxation under 26 U.S.C. 501(c)(3) and was constructed using a home investment partnerships program grant.

(2) (a) Prior to applying to the department for the tax exemption provided for in this section, the unit of local government where the proposed project is to be located shall ~~give due notice, as defined in 76-15-103~~ publish notice:

(i) as provided in 7-1-2121 if the governing body is a county commission; or

(ii) as provided in 7-1-4127 for a time period in accordance with 7-1-4127(7)(b) if the governing body is a city commission or a town council, and.

(b) The unit of local government shall hold a public hearing to solicit comment on whether the proposed qualifying low-income rental housing property meets a community housing need.

(c) A record of the public hearing must be forwarded to the board of housing.

(3) (a) A party satisfies the nonprofit partner or limited liability company member requirement of subsection (1)(a)(i) if it is a single-member limited liability company that is fully owned and controlled by a nonprofit corporation described in subsection (1)(a)(i).

(b) A property must be considered to be owned and operated by an entity as described in subsection (1)(a)(i) if it is occupied by the entity as a lessee under a long-term lease exceeding 49 years in length under which most benefits and burdens of ownership during the lease term have shifted to the lessee, including the obligation to pay property taxes.

(c) If a residential rental property is an integral part of a combination of two properties that when combined make up a single commonly operated residential rental property, the qualifications for both properties under subsection (1)(a)(ii) must be measured collectively with reference to the units located on both properties if:

(i) the beneficial ownership of the entities described in subsection (1)(a)(i) for both properties are substantially identical; and

(ii) all other requirements of both parties under this section are met.”

Section 7. Section 69-7-111, MCA, is amended to read:

“69-7-111. Municipal rate hearing required – notice. (1) Except as provided in 75-5-516, 75-6-108, and subsection (6), if the governing body of a municipality considers it advisable to regulate, establish, or change rates, charges, or classifications imposed on its customers, it shall order a hearing to be held before it at a time and place specified.

(2) Notice of the hearing must be published in a newspaper as provided in 7-1-4127.

(3) ~~(a) The notice must be:~~

~~(a) published three times with at least 6 days separating each publication. The first publication may be no more than 28 days prior to the hearing, and the last publication may be no less than 3 days prior to the hearing for a time period in accordance with 7-1-4127(7)(b); and:~~

~~(b) The notice must also be mailed at least 7 days and not more than 30 days prior to the hearing to persons served by the utility. The notice must be mailed within the prescribed time period. This~~ The mailed notice must contain an estimate of the amount the customer’s average bill will increase.

(4) The published notice must contain:

(a) the date, time, and place of the hearing;

(b) a brief statement of the proposed action; and

(c) the address and telephone number of a person who may be contacted for further information regarding the hearing.

(5) Notice of all hearings shall be mailed first class, postage prepaid, to the Montana consumer counsel.

(6) (a) If the proposed increase in the rates, fees, or charges imposed by the municipality is the result of the establishment of or change in rates, fees, or charges imposed by a regional authority of which the municipality is a customer and the authority is required to hold a public hearing pursuant to 75-6-326, the governing body of the municipality shall:

(i) mail notice of the public hearing to be held by the authority to all persons served by the municipality at least 15 days before the public hearing; and

(ii) provide notification to all persons served by the municipality at least 10 days prior to the enactment of the ordinance or adoption of the resolution implementing the increase.

(b) The municipality is not required to hold a public hearing in connection with the increase.

(7) If a regional authority is not required to hold a public hearing as provided in 75-6-326(9), the municipality is subject to the hearing requirements of this section."

Section 8. Section 76-1-602, MCA, is amended to read:

"76-1-602. Public hearing on proposed growth policy. (1) Prior to the submission of the proposed growth policy to the governing bodies, the board shall give notice and hold a public hearing on the growth policy.

(2) ~~At least 10 days prior to the date set for hearing, the~~ *The* board shall publish in a newspaper of general circulation in the jurisdictional area a notice of the time and place of the hearing *as provided in 7-1-2121 if the governing body is a county commission or as provided in 7-1-4127 for a time period in accordance with 7-1-4127(7)(b) if the governing body is a city commission or a town council.*"

Section 9. Section 76-2-303, MCA, is amended to read:

"76-2-303. Procedure to administer certain annexations and zoning laws – hearing and notice. (1) The city or town council or other legislative body of a municipality shall provide for the manner in which regulations and restrictions and the boundaries of districts are determined, established, enforced, and changed, subject to the requirements of subsection (2).

(2) A regulation, restriction, or boundary may not become effective until after a public hearing in relation to the regulation, restriction, or boundary at which parties in interest and citizens have an opportunity to be heard has been held. ~~At least 15 days' notice~~ *Notice* of the time and place of the hearing must be published in an official paper or a paper of general circulation in the municipality *as provided in 7-1-4127 for a time period in accordance with 7-1-4127(7)(b).*

(3) (a) For municipal annexations, a municipality may conduct a hearing on the annexation in conjunction with a hearing on the zoning of the proposed annexation if the proposed municipal zoning regulations for the annexed property:

(i) authorize land uses comparable to the land uses authorized by county zoning;

(ii) authorize land uses that are consistent with land uses approved by the board of county commissioners or the board of adjustment pursuant to Title 76, chapter 2, part 1 or 2; or

(iii) are consistent with zoning requirements recommended in a growth policy adopted pursuant to Title 76, chapter 1, for the annexed property.

(b) A joint hearing authorized under this subsection (3) fulfills a municipality's obligation regarding zoning notice and public hearing for a proposed annexation."

Section 10. Section 76-2-306, MCA, is amended to read:

"76-2-306. Interim zoning ordinances. (1) Except as provided in 76-2-340, the city or town council or other legislative body of the municipality, to protect the public safety, health, and welfare and without following the procedures otherwise required prior to the adoption of a zoning ordinance, may adopt as an urgency measure an interim zoning ordinance prohibiting any uses that may be in conflict with a contemplated zoning proposal that the legislative body is considering or studying or intends to study within a reasonable time.

(2) An interim zoning ordinance may be applicable only within the city limits and up to 1 mile beyond the corporate boundaries of the city or town and takes effect upon passage if a hearing is first held upon notice reasonably designed to inform all affected parties. A notice must be published in a newspaper of general circulation at least 7 days before the hearing as provided in 7-1-4127.

(3) An interim zoning ordinance is no longer in effect 6 months from the date of its adoption. However, after notice pursuant to 76-2-303 and pursuant to public hearing, the legislative body may extend the interim zoning ordinance for 1 year. Any extension requires a two-thirds vote for passage and becomes effective upon passage. No more than two extensions may be adopted.”

Section 11. Section 76-3-503, MCA, is amended to read:

“76-3-503. Hearing on proposed regulations. Before the governing body adopts subdivision regulations pursuant to 76-3-501 or 76-3-509, it shall hold a public hearing on the regulations and shall give public notice of its intent to adopt the regulations and of the public hearing by publication of notice of the time and place of the hearing in a newspaper of general circulation in the county not less than 15 or more than 30 days prior to the date of the hearing as provided in 7-1-2121 if the governing body is a county commission or as provided in 7-1-4127 for a time period in accordance with 7-1-4127(7)(b) if the governing body is a city commission or a town council.”

Section 12. Section 76-3-605, MCA, is amended to read:

“76-3-605. Hearing on subdivision application. (1) Except as provided in 76-3-609 and 76-3-616 and subject to the regulations adopted pursuant to 76-3-504(1)(o) and 76-3-615, at least one public hearing on the subdivision application must be held by the governing body, its authorized agent or agency, or both and the governing body, its authorized agent or agency, or both shall consider all relevant evidence relating to the public health, safety, and welfare, including the environmental assessment if required, to determine whether the subdivision application should be approved, conditionally approved, or denied by the governing body.

(2) When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality shall hold joint hearings on the subdivision application and annexation whenever possible.

(3) Notice of the hearing must be given by publication in a newspaper of general circulation in the county not less than 15 days prior to the date of the hearing published as provided in 7-1-2121 if the governing body is a county commission or as provided in 7-1-4127 for a time period in accordance with 7-1-4127(7)(b) if the governing body is a city commission or a town council. The subdivider, each property owner of record whose property is immediately adjoining the land included in the preliminary plat, and each purchaser under contract for deed of property immediately adjoining the land included in the preliminary plat must also be notified of the hearing by registered or certified mail postmarked not less than 15 business days prior to the date of the hearing.

(4) When a hearing is held by an agent or agency designated by the governing body, the agent or agency shall act in an advisory capacity and recommend to the governing body the approval, conditional approval, or denial of the proposed subdivision. This recommendation must be submitted to the governing body in writing not later than 10 working days after the public hearing.”

Section 13. Section 76-3-623, MCA, is amended to read:

“76-3-623. Expedited review for certain subdivisions. (1) Except as provided in subsection (9), a subdivision application, regardless of the number of lots, that meets the requirements provided in subsection (3) is entitled to the expedited review process provided in this section at the applicant’s request.

(2) A subdivision application that meets the requirements provided in subsection (3) is exempt from:

(a) the preparation of an environmental assessment as required in 76-3-603; and

(b) the review criteria listed in 76-3-608(3)(a).

(3) A subdivision qualifies for the expedited review process provided in this section if the proposed subdivision:

(a) is within:

(i) an incorporated city or town or consolidated city-county government and is subject to an adopted growth policy pursuant to Title 76, chapter 1, and adopted zoning regulations pursuant to Title 76, chapter 2, part 3; or

(ii) a county water and/or sewer district created under 7-13-2203 that provides both water and sewer services or an area outside the boundaries of an incorporated city, town, county, or consolidated city-county that is served by city, town, county, or consolidated city-county water and sewer services and is subject to an adopted growth policy as provided in Title 76, chapter 1, and zoning regulations pursuant to Title 76, chapter 2, part 2, that, at a minimum, address development intensity through minimum lot sizes or densities, bulk and dimensional requirements, and use standards;

(b) complies with zoning regulations adopted pursuant to 76-2-203 or 76-2-304 and complies with the design standards and other subdivision regulations adopted pursuant to 76-3-504; and

(c) includes in its proposal plans for the onsite development of or extension to public infrastructure in accordance with adopted ordinances and regulations.

(4) On submission for expedited review under this section, the subdivision application must be reviewed for required elements and sufficiency of information as provided in 76-3-601(1) through (3) to determine whether the application complies with zoning regulations adopted pursuant to 76-2-203 or 76-2-304 and complies with the design standards and other subdivision regulations adopted pursuant to 76-3-504 and includes in its proposal plans for the onsite development of or extension to public infrastructure in accordance with adopted ordinances and regulations. The application may include a request for variance or deviation from subdivision regulations adopted pursuant to 76-3-504 and in accordance with the provisions of 76-3-506.

(5) The governing body shall:

(a) hold a hearing and approve, conditionally approve, or deny the subdivision application within 35 working days of a determination by the reviewing agent or agency that the application contains required elements and sufficient information for review as provided in subsection (3). If the subdivision application includes a request for variance or deviation from subdivision regulations adopted pursuant to 76-3-504, the time for holding a hearing as required in this subsection (5) must be extended to a total of 45 working days.

(b) provide notice for the hearing required in subsection (5)(a) by publication in a newspaper of general circulation in the county not less than 15 days prior to the date of the hearing as provided in 7-1-2121 if the governing body is a county commission or as provided in 7-1-4127 for a time period in accordance with 7-1-4127(7)(b) if the governing body is a city commission or a town council;

(c) approve the application unless public comment or other information demonstrates the application does not comply with:

(i) adopted zoning regulations, design standards, and other requirements of subdivision regulations adopted pursuant to 76-3-504, including any criteria for granting variances or deviations from subdivision regulations adopted pursuant to 76-3-504; or

(ii) adopted ordinances or regulations for the onsite development of or extension to public infrastructure; and

(d) provide to the applicant and the public a written statement within 30 days of the decision to approve or deny a proposed subdivision for expedited review as allowed in this section that provides:

(i) the facts and conclusions that the governing body relied on in making its decision to approve or deny the application; and

(ii) the conditions that apply to the preliminary plat approval that must be satisfied before the final plat may be approved.

(6) The governing body may:

(a) with the agreement of the applicant, grant one extension of the review period allowed in subsection (5)(a) not to exceed 180 calendar days;

(b) adopt conditions of approval only to ensure an approved subdivision application is completed in accordance with the approved application and any applicable requirements pursuant to Title 76, chapter 4; or

(c) delegate to its reviewing agent or agency the requirement to hold a public hearing on the subdivision application as required in this section.

(7) A local governing body may not adopt zoning regulations pursuant to 76-2-203 or 76-2-304, subdivision regulations pursuant to 76-3-504, or other ordinances or regulations that restrict the use of the expedited subdivision review process as provided in this section.

(8) (a) Except as modified in this section, subdivision applications meeting the requirements for an expedited review remain subject to the provisions of 76-3-608(3)(b) through (3)(d) and 76-3-608(6) through (10), 76-3-610 through 76-3-614, 76-3-621, and 76-3-625.

(b) The provisions of this section supersede any provision of this chapter that is in conflict with any provision of this section.

(9) A subdivision located outside of the boundaries of an incorporated city or town may not utilize the expedited review process provided in this section unless the board of county commissioners of the county where the subdivision is located has voted to allow the provisions of this section to apply to subdivisions located outside the boundaries of an incorporated city or town.

(10) An incorporated city, town, or consolidated city-county shall implement the expedited review provided for in this section for a proposed subdivision that meets the criteria in subsection (3)(a)(i) regardless of whether the city, town, or consolidated city-county has incorporated the provisions of this section into the city, town, or consolidated city-county's local subdivision regulations."

Section 14. Section 76-8-107, MCA, is amended to read:

"76-8-107. Buildings for lease or rent – four or more buildings – regulations. (1) A governing body shall adopt regulations for the administration and enforcement of the creation of four or more buildings for lease or rent on a single tract.

(2) The regulations adopted pursuant to this section must, at a minimum:

(a) list the materials that must be included in an application for the creation of four or more buildings for lease or rent;

(b) require a description of:

(i) property boundaries;

(ii) onsite and adjacent offsite streets, roads, and easements;

(iii) geographic features;

(iv) existing septic tanks and drainfields;

(v) existing wells; and

(vi) existing and proposed buildings;

(c) require adequate water supply and sewage and solid waste disposal facilities;

(d) require an assessment of potential significant impacts on the surrounding physical environment and human population in the area to be affected, including conditions, if any, that may be imposed on the proposal to avoid or minimize potential significant impacts identified;

(e) require adequate emergency medical, fire protection, and law enforcement services;

(f) require access to the site; and

(g) comply with applicable flood plain requirements.

(3) (a) Prior to adopting regulations pursuant to this section, the governing body shall provide an opportunity for public hearing and comment on the proposed regulations. Notice of the public hearing must be published:

(i) as provided in 7-1-2121 if the governing body is a county commission and posted not less than 30 days before the public hearing in at least five public places, including but not limited to public buildings; or

(ii) as provided in 7-1-4127 if the governing body is a city commission or a town council. and must be posted not less than 30 days before the public hearing in at least five public places, including but not limited to public buildings.

(b) Public comment must be addressed before the regulations are adopted.”

Section 15. Section 76-25-307, MCA, is amended to read:

“76-25-307. Interim zoning ordinances. (1) A local government, to protect the public safety, health, and welfare and without following the procedures otherwise required prior to adopting a zoning regulation, may adopt an interim zoning ordinance as an urgency measure to regulate or prohibit uses that may conflict with a zoning proposal that the governing body is considering or studying or intends to study within a reasonable time.

(2) Before adopting an interim zoning ordinance, the governing body shall first hold a public hearing upon notice reasonably designed to inform all affected parties. A notice must be published in a newspaper of general circulation at least 7 days before the public hearing as provided in 7-1-4127.

(3) An interim zoning ordinance takes effect immediately on passage and approval after first reading and may be in effect no longer than 1 year from the date of its adoption.

(4) A local government may not act under the authority provided for in this section until the local government has adopted a land use plan and zoning regulations pursuant to this chapter.”

Approved May 1, 2025

CHAPTER NO. 273

[HB 397]

AN ACT GENERALLY REVISING LAWS RELATED TO PRIVACY IN MENTAL HEALTH DIGITAL SERVICE; ESTABLISHING CONFIDENTIALITY STANDARDS FOR MENTAL HEALTH DIGITAL SERVICE; PROVIDING FOR REMEDIES FOR NONCOMPLIANCE; AND PROVIDING A DEFINITION.

Be it enacted by the Legislature of the State of Montana:

Section 1. Digital health care information – confidentiality – penalties – additional requirements. (1) A mental health digital service is subject to the disclosure and confidentiality provisions of Title 50, chapter 16, part 5, when handling health care information as defined in 50-16-504 on behalf of an individual.

(2) A violation of this section may be enforced as provided in 50-16-552, and a person whose information is disclosed in violation of Title 50, chapter 16, part 5, may pursue the remedies allowed in 50-16-553.

(3) “Mental health digital service” means a mobile-based application or internet website that:

(a) collects, obtains, uses, possesses, or accesses information related to an individual’s inferred or diagnosed mental health or substance use disorder;

(b) markets itself as facilitating mental health or substance use disorder services to an individual; and

(c) uses the information provided to facilitate mental health services, including diagnosis, treatment, suggested therapies, and management of the mental health or substance use disorder for an individual.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 50, chapter 16, part 5, and the provisions of Title 50, chapter 16, part 5, apply to [section 1].

Approved May 1, 2025

CHAPTER NO. 274

[HB 398]

AN ACT GENERALLY REVISING UTILIZATION REVIEW LAWS; ESTABLISHING REQUIREMENTS FOR INDIVIDUALS MAKING OR REVIEWING ADVERSE DETERMINATIONS; PROVIDING FOR QUALIFICATIONS OF INDIVIDUALS MAKING OR REVIEWING ADVERSE DETERMINATIONS; REVISING A DEFINITION; AMENDING SECTIONS 33-32-102 AND 33-32-107, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Exemption for continuity of care on change in health plans. (1) When a covered person changes health plans, a health insurance issuer or its utilization review organization shall honor a certification for health care services granted by a previous health insurance issuer or its utilization review organization for at least the first 3 months of the person’s coverage under a new health plan on receiving information documenting the certification from the covered person or the person’s health care provider, provided that the services are covered services under the new plan.

(2) During the time period specified in subsection (1), a utilization review organization may perform its own review to grant certification.

(3) If a change in coverage or approval criteria occurs for a previously certified health care service, the change in coverage or approval criteria does not affect a covered person who received certification for a health care service before the effective date of the change for the remainder of the authorization period or the covered person’s plan year, whichever is shorter.

(4) A utilization review organization shall continue to honor a certification for health care services it has granted to a covered person when the person changes to a product offered by the same health insurance issuer, provided that the services are covered under the new plan.

Section 2. Qualifications of individuals making or reviewing adverse determinations. (1) A health insurance issuer or its utilization review organization shall ensure that all adverse determinations pursuant to 33-32-211 or 33-32-212 are made by:

(a) a physician when the request is by or on behalf of a physician; or

(b) a health care professional licensed in the same profession as the health care professional making the request, or, in any case, by a physician.

(2) A physician or other health care professional making an adverse determination pursuant to subsection (1) must:

(a) possess a current and valid nonrestricted license; and

(b) have experience treating and managing patients with the medical condition or disease for which the health care service is being requested, or shall refer the review to a physician with the requisite specialized knowledge and experience.

(3) A health insurance issuer or its utilization review organization shall ensure that only a physician reviews a grievance as provided under 33-32-308 or 33-32-309. A physician making an adverse determination or reviewing a grievance must:

(a) possess a current and valid nonrestricted license to practice medicine; and

(b) be of a specialty that focuses on the diagnosis and treatment of the condition that is being treated.

(4) A health insurance issuer or its utilization review organization must make all adverse determinations under the clinical direction of one of the utilization review organization's medical directors who is responsible for the oversight of the utilization review activities for covered persons in the state. A medical director used for this purpose must be a licensed physician.

(5) For the purposes of this section, "adverse determination" has the same meaning as provided in 33-32-102(1)(a) or (1)(c).

Section 3. Section 33-32-102, MCA, is amended to read:

"33-32-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Adverse determination", except as provided in 33-32-402, means:

(a) a determination by a health insurance issuer or its designated utilization review organization that, based on the provided information and after application of any utilization review technique, a requested benefit under the health insurance issuer's health plan is denied, reduced, or terminated or that payment is not made in whole or in part for the requested benefit because the requested benefit does not meet the health insurance issuer's requirement for medical necessity, appropriateness, health care setting, level of care, or level of effectiveness or is determined to be experimental or investigational;

(b) a denial, reduction, termination, or failure to provide or make payment in whole or in part for a requested benefit based on a determination by a health insurance issuer or its designated utilization review organization of a person's eligibility to participate in the health insurance issuer's health plan;

(c) any prospective review or retrospective review of a benefit determination that denies, reduces, or terminates or fails to provide or make payment in whole or in part for a benefit; or

(d) a rescission of coverage determination.

(2) "Ambulatory review" means a utilization review of health care services performed or provided in an outpatient setting.

(3) "Authorized representative" means:

(a) a person to whom a covered person has given express written consent to represent the covered person;

(b) a person authorized by law to provide substituted consent for a covered person; or

(c) a family member of the covered person, or the covered person's treating health care provider, only if the covered person is unable to provide consent.

(4) "Case management" means a coordinated set of activities conducted for individual patient management of serious, complicated, protracted, or otherwise complex health conditions.

(5) "Certification" means a determination by a health insurance issuer or its designated utilization review organization that an admission, availability of care, continued stay, or other health care service has been reviewed and, based on the information provided, satisfies the health insurance issuer's requirements for medical necessity, appropriateness, health care setting, level of care, and level of effectiveness.

(6) "*Chronic condition*" means a condition that lasts 1 year or more and requires ongoing medical attention or limits activities of daily living.

(6)(7) "Clinical peer" means a physician or other health care provider who:

(a) holds a nonrestricted license in a state of the United States; and

(b) is trained or works in the same or a similar specialty to the specialty that typically manages the medical condition, procedure, or treatment under review.

(7)(8) "Clinical review criteria" means the written policies, written screening procedures, decision abstracts, determination rules, clinical and medical protocols, practice guidelines, or any other criteria or rationale used by a health insurance issuer or its designated utilization review organization to determine the medical necessity of health care services.

(8)(9) "Concurrent review" means a utilization review conducted during a patient's stay or course of treatment in a facility, the office of a health care professional, or another inpatient or outpatient health care setting.

(9)(10) "Cost sharing" means the share of costs that a covered member pays under the health insurance issuer's health plan, including maximum out-of-pocket, deductibles, coinsurance, copayments, or similar charges, but does not include premiums, balance billing amounts for out-of-network providers, or the cost of noncovered services.

(10)(11) "Covered benefits" or "benefits" means those health care services to which a covered person is entitled under the terms of a health plan.

(11)(12) "Covered person" means a policyholder, a certificate holder, a member, a subscriber, an enrollee, or another individual participating in a health plan.

(12)(13) "Discharge planning" means the formal process for determining, prior to discharge from a facility, the coordination and management of the care that a patient receives after discharge from a facility.

(13)(14) "Emergency medical condition" has the meaning provided in 33-36-103.

(14)(15) "Emergency services" has the meaning provided in 33-36-103.

(15)(16) "External review" describes the set of procedures provided for in Title 33, chapter 32, part 4.

(16)(17) "Final adverse determination" means an adverse determination involving a covered benefit that has been upheld by a health insurance issuer or its designated utilization review organization at the completion of the health insurance issuer's internal grievance process as provided in Title 33, chapter 32, part 3.

(17)(18) "Grievance" means a written complaint or an oral complaint if the complaint involves an urgent care request submitted by or on behalf of a covered person regarding:

(a) availability, delivery, or quality of health care services, including a complaint regarding an adverse determination made pursuant to utilization review;

(b) claims payment, handling, or reimbursement for health care services; or

(c) matters pertaining to the contractual relationship between a covered person and a health insurance issuer.

~~(18)~~(19) “Health care provider” or “provider” means a person, corporation, facility, or institution licensed by the state to provide, or otherwise lawfully providing, health care services, including but not limited to:

(a) a physician, physician assistant, advanced practice registered nurse, health care facility as defined in 50-5-101, osteopath, dentist, nurse, optometrist, chiropractor, podiatrist, physical therapist, psychologist, licensed social worker, speech pathologist, audiologist, licensed addiction counselor, or licensed professional counselor; and

(b) an officer, employee, or agent of a person described in subsection ~~(18)~~(a) ~~(19)~~(a) acting in the course and scope of employment.

~~(19)~~(20) “Health care services” means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease, including the provision of pharmaceutical products or services or durable medical equipment.

~~(20)~~(21) “Health insurance issuer” has the meaning provided in 33-22-140.

~~(21)~~(22) “Medical necessity” means health care services that a health care provider exercising prudent clinical judgment would provide to a patient for the purpose of preventing, evaluating, diagnosing, treating, curing, or relieving a health condition, illness, injury, or disease or its symptoms and that are:

(a) in accordance with generally accepted standards of practice;

(b) clinically appropriate in terms of type, frequency, extent, site, and duration and are considered effective for the patient’s illness, injury, or disease; and

(c) not primarily for the convenience of the patient or health care provider and not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the patient’s illness, injury, or disease.

~~(22)~~(23) “Network” means the group of participating providers providing services to a managed care plan.

~~(23)~~(24) “Participating provider” means a health care provider who, under a contract with a health insurance issuer or with its contractor or subcontractor, has agreed to provide health care services to covered persons with the expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly or indirectly from the health insurance issuer.

~~(24)~~(25) “Person” means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, or any similar entity or combination of entities in this subsection.

~~(25)~~(26) “Preservice claim” means a request for benefits or payment from a health insurance issuer for health care services that, under the terms of the health insurance issuer’s contract of coverage, requires authorization from the health insurance issuer or from the health insurance issuer’s designated utilization review organization prior to receiving the services.

~~(26)~~(27) “Prospective review” means a utilization review, *medical necessity review*, or *prior authorization* conducted of a preservice claim prior to an admission or a course of treatment.

~~(27)~~(28) (a) “Rescission” means a cancellation or the discontinuance of coverage under a health plan that has a retroactive effect.

(b) The term does not include a cancellation or discontinuance under a health plan if the cancellation or discontinuance of coverage:

(i) has only a prospective effect; or

(ii) is effective retroactively to the extent that the cancellation or discontinuance is attributable to a failure to timely pay required premiums or contributions toward the cost of coverage.

(28)(29) (a) “Retrospective review” means a review of medical necessity conducted after services have been provided to a covered person.

(b) The term does not include the review of a claim that is limited to an evaluation of reimbursement levels, veracity of documentation, accuracy of coding, or adjudication for payment.

(29)(30) “Second opinion” means an opportunity or requirement to obtain a clinical evaluation by a health care provider other than the one originally making a recommendation for a proposed health care service to assess the clinical necessity and appropriateness of the initial proposed health care service.

(30)(31) “Stabilize” means, with respect to an emergency condition, to ensure that no material deterioration of the condition is, within a reasonable medical probability, likely to result from or occur during the transfer of the individual from a facility.

(31)(32) (a) “Urgent care request” means a request for a health care service or course of treatment with respect to which the time periods for making a nonurgent care request determination could:

(i) seriously jeopardize the life or health of the covered person or the ability of the covered person to regain maximum function; or

(ii) subject the covered person, in the opinion of a health care provider with knowledge of the covered person’s medical condition, to severe pain that cannot be adequately managed without the health care service or treatment that is the subject of the request.

(b) Except as provided in subsection (31)(c) (32)(c), in determining whether a request is to be treated as an urgent care request, an individual acting on behalf of the health insurance issuer shall apply the judgment of a prudent lay person who possesses an average knowledge of health and medicine.

(c) Any request that a health care provider with knowledge of the covered person’s medical condition determines is an urgent care request within the meaning of subsection (31)(a) (32)(a) must be treated as an urgent care request.

(32)(33) “Utilization review” means a set of formal techniques designed to monitor the use of or to evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures, or settings. Techniques may include ambulatory review, prospective review, second opinions, certification, concurrent review, case management, discharge planning, or retrospective review.

(33)(34) “Utilization review organization” means an entity that conducts utilization review for one or more of the following:

(a) an employer with employees who are covered under a health benefit plan or health insurance policy;

(b) a health insurance issuer providing review for its own health plans or for the health plans of another health insurance issuer;

(c) a preferred provider organization or health maintenance organization; and

(d) any other individual or entity that provides, offers to provide, or administers hospital, outpatient, medical, or other health benefits to a person treated by a health care provider under a policy, plan, or contract.”

Section 4. Section 33-32-107, MCA, is amended to read:

“33-32-107. Length of prior authorization. (1) A certification by a utilization review organization approving health care services is valid for at least 6 months from the date the health care provider receives the certification

unless the covered person loses coverage under the applicable health plan or health insurance coverage *or unless a shorter duration is warranted by the United States food and drug administration guidance or other patient safety concerns.*

(2) A certification by a utilization review organization approving a health care service for treatment of a chronic condition is valid for 12 months, unless a shorter duration is warranted by the United States food and drug administration's guidance or other patient safety concerns."

Section 5. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 33, chapter 32, and the provisions of Title 33, chapter 32, apply to [sections 1 and 2].

Section 6. Effective date. [This act] is effective January 1, 2026.

Approved May 1, 2025

CHAPTER NO. 275

[HB 400]

AN ACT ESTABLISHING THE FREE TO SPEAK ACT; PROHIBITING PUBLIC SCHOOLS OR THE STATE FROM IMPOSING DISCIPLINARY OR OTHER ADVERSE ACTIONS ON A STUDENT OR EMPLOYEE WHO REFUSES TO USE CERTAIN SPEECH; PROVIDING A CAUSE OF ACTION FOR VIOLATIONS OF THE FREE TO SPEAK ACT; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 4] may be cited as the "Free to Speak Act".

Section 2. Definitions. As used in [sections 1 through 4], the following definitions apply:

(1) "Employee" means an individual who is employed or contracted by a public school or the state.

(2) "Noncharter public school" has the meaning provided in 20-6-803.

(3) "Person" has the meaning provided in 1-1-201.

(4) "Public charter school" has the meaning provided in 20-6-803.

(5) (a) "Public school" means a noncharter public school, a public charter school, or a public institution of higher education.

(b) The term does not include a nonpublic school or home school as described in 20-5-102(2)(e).

(6) "Sex" has the meaning provided in 1-1-201.

(7) "State" means the state of Montana or a county, municipality, board, commission, department, institution, or special district, or a subdivision or agency of the state of Montana or a county, municipality, board, commission, department, institution, or special district.

(8) "Student" means an individual who is enrolled in a public school on a full-time or part-time basis.

Section 3. Protection against compelled speech. (1) A student may not be subject to a disciplinary action for declining to:

(a) identify the student's pronouns; or

(b) address a person by using a name other than the person's legal name or a derivative of the person's legal name or by using a pronoun or a title that is inconsistent with the person's sex.

(2) An employee, regardless of the scope of the employee's official duties, may not be subject to an adverse employment action for declining to:

(a) identify the employee's pronouns while acting within the scope of employment; or

(b) address a person by using a name other than the person's legal name or a derivative of the person's legal name or by using a pronoun or a title that is inconsistent with the person's sex.

(3) The state may not penalize or take an adverse action against a person because the person declines to:

(a) identify the person's pronouns; or

(b) address another person by using a name other than the other person's legal name or a derivative of the other person's legal name or by using a pronoun or a title that is inconsistent with the other person's sex.

Section 4. Private cause of action – penalties – limitation. (1) A person who is harmed by a violation of [sections 1 through 4] may bring a cause of action against a public school or the state for injunctive relief, monetary damages, reasonable attorney fees and costs, and any other appropriate relief.

(2) A civil action brought pursuant to this section must be initiated within 2 years after the violation of [sections 1 through 4] occurs.

Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 49, chapter 1, part 1, and the provisions of Title 49, chapter 1, part 1, apply to [sections 1 through 4].

Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 7. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 276

[HB 401]

AN ACT PROHIBITING THE MANUFACTURE FOR SALE, SALE, HOLDING OR OFFERING FOR SALE, OR DISTRIBUTION OF CELL-CULTURED EDIBLE PRODUCT; PROVIDING PENALTIES; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 50-31-103, 50-31-203, 50-31-501, AND 81-9-217, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Cell-cultured edible product – prohibition – rulemaking authority – definition. (1) It is unlawful for a person to manufacture for sale, sell, hold or offer for sale, or distribute cell-cultured edible product in this state.

(2) The department may adopt rules to implement this section.

(3) As used in [section 2] and this section, the following definitions apply:

(a) "Cell-cultured edible product" has the same meaning as provided in 50-31-103.

(b) "Retail food establishment" has the same meaning as provided in 50-50-102.

Section 2. Penalty – violation – stop sale. (1) A person who knowingly violates [section 1] commits a misdemeanor and is subject to the provisions of 50-31-506.

(2) A retail food establishment that manufactures for sale, sells, holds or offers for sale, or distributes cell-cultured edible product as defined in

[section 1] is found in violation of [section 1] and is subject to disciplinary action pursuant to 50-50-107 through 50-50-109.

(3) In addition to the penalties provided in this section, the license of a restaurant, store, or other business may be suspended as provided in the applicable licensing law on the conviction of an owner or employee of that business for a violation of [section 1] in connection with that business.

(4) A product found to be in violation of [section 1] is subject to the provisions of this chapter and an immediate stop sale order.

Section 3. Section 50-31-103, MCA, is amended to read:

“50-31-103. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) “Advertisement” means representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing or that are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics.

(2) “Beef patty mix” means “hamburger” or “ground beef” to which have been added binders or extenders as those terms are understood by general custom and usage in the food industry.

(3) “Bottled water” means water that is intended for human consumption and that is sealed in bottles or other containers with no added ingredients, except that bottled water may optionally contain safe and suitable antimicrobial agents.

(4) “Cell-cultured edible product” means the concept of meat, including but not limited to muscle cells, fat cells, connective tissue, blood, and other components produced via cell culture, rather than from a whole slaughtered animal. ~~A cell-cultured edible product derived from meat muscle cells, fat cells, connective tissue, blood, or other meat components must contain labeling indicating it is derived from those cells, tissues, blood, or components.~~

(5) “Color” includes black, white, and intermediate grays.

(6) (a) “Color additive” means a material that:

(i) is a dye, pigment, or other substance made by a process of synthesis or similar artifice or that is extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source; or

(ii) when added or applied to a food, drug, or cosmetic or to the human body is capable (alone or through reaction with another substance) of imparting color to the human body.

(b) The term does not include material that has been or is exempted under the federal act.

(7) (a) “Consumer commodity”, except as otherwise specifically provided by this subsection, means any food, drug, device, or cosmetic as those terms are defined by this chapter or by the federal act and regulations pursuant to the federal act.

(b) The term does not include:

(i) any tobacco or tobacco product;

(ii) a commodity subject to packaging or labeling requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136, et seq.) or the provisions of the eighth paragraph under the heading “Bureau of Animal Industry” of the act of March 4, 1913 (37 Stat. 832-833; 21 U.S.C. 151 through 157), commonly known as the Virus-Serum-Toxin Act;

(iii) a drug subject to 50-31-306(1)(m) or 50-31-307(2)(c) or section 503(b)(1) or 506 of the federal act (21 U.S.C. 353(b)(1) and 356);

(iv) a beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act (27 U.S.C. 201, et seq.); or

(v) a commodity subject to the Federal Seed Act (7 U.S.C. 1551 through 1610).

(8) "Contaminated with filth" applies to a food, drug, device, or cosmetic not securely protected from dust, dirt, and, as far as may be necessary by all reasonable means, foreign, or injurious contaminations.

(9) (a) "Cosmetic" means:

(i) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

(ii) articles intended for use as a component of these articles.

(b) The term does not include soap.

(10) "Counterfeit drug" means a drug, drug container, or drug label that, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device or any likeness of an identifying mark, imprint, or device of a drug manufacturer, processor, packer, or distributor other than the person who in fact manufactured, processed, packed, or distributed the drug and that falsely purports or is represented to be the product of or to have been packed or distributed by the other drug manufacturer, processor, packer, or distributor.

(11) "Department" means the department of public health and human services provided for in 2-15-2201.

(12) "Device" (except when used in 50-31-107(2), 50-31-203(6), 50-31-306(1)(c) and (1)(q), 50-31-402(3), and 50-31-501~~(10)~~(11)) means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended:

(a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals; or

(b) to affect the structure or function of the body of humans or other animals.

(13) "Dietary supplement" means a product, other than a tobacco product, that is intended to supplement the diet and that:

(a) is advertised only as a food supplement;

(b) bears or contains one or more of the following ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical substance;

(iv) an amino acid;

(v) a dietary substance used to supplement the diet by increasing the total dietary intake or a concentrate, metabolite, constituent, extract, or combination of any ingredients described in subsections (13)(b)(i) through (13)(b)(iv);

(c) conforms to any additional provisions for the definition of dietary supplement under 21 U.S.C. 321.

(14) "Drug" means:

(a) articles recognized in the official United States Pharmacopoeia, official National Formulary, or a supplement to either of these;

(b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals;

(c) articles (other than food) intended to affect the structure or function of the body of humans or other animals;

(d) articles intended for use as components of any article specified in subsection (14)(a), (14)(b), or (14)(c) but does not include devices or their components, parts, or accessories.

(15) "Federal act" means the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 301, et seq.).

(16) "Food" means:

- (a) articles used for food or drink for humans or other animals;
- (b) chewing gum;
- (c) articles used for components of these articles; and
- (d) dietary supplements.

(17) (a) "Food additive" means a substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of food. The term includes a substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food and a source of radiation intended for this use if the substance is not generally recognized among experts qualified by scientific training and experience to evaluate its safety as having been adequately shown through scientific procedures to be safe under the conditions of its intended use. Alternatively, for a substance used in a food prior to January 1, 1958, the determination of safety under the conditions of the substance's intended use may be through either scientific procedures or experience based on common use in food.

(b) The term does not include:

- (i) a pesticide chemical in or on a raw agricultural commodity;
- (ii) a pesticide chemical to the extent that the pesticide chemical is intended for use or is used in the production, storage, or transportation of a raw agricultural commodity;

(iii) a color additive;

(iv) a substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act, the Poultry Products Inspection Act (21 U.S.C. 451, et seq.), or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260), as amended and extended (21 U.S.C. 603, et seq.).

(18) "Food service establishment" means a retail food establishment defined in 50-50-102 and any facility operated by a governmental entity where food is served.

(19) "Hamburger" or "ground beef" means ground fresh or frozen beef or a combination of both fresh and frozen beef, with or without the addition of suet, to which no water, binders, or extenders are added. The term includes only products entirely derived from the edible flesh of livestock or a livestock product, as meat is defined in 81-9-217. The term does not include cell-cultured edible products. There are four grades of hamburger or ground beef:

(a) "regular hamburger" or "regular ground beef" may have:

(i) a fat content no greater than the federal standard set forth in 9 CFR 319.15; and

(ii) a lean content of no less than 70%;

(b) "lean hamburger" or "lean ground beef" may have:

(i) a fat content no greater than 22%; and

(ii) a lean content of no less than 78%;

(c) "extra lean hamburger" or "extra lean ground beef" may have:

(i) a fat content no greater than 16%; and

(ii) a lean content of no less than 84%; and

(d) "super lean hamburger" or "super lean ground beef" may have:

(i) a fat content no greater than 12%; and

(ii) a lean content of no less than 88%.

(20) "Honey" means the nectar and saccharine plant exudations, gathered, modified, and stored in the comb by honey bees, that are levorotatory and that contain not more than 25% of water, not more than 0.25% of ash, and not more than 8% sucrose.

(21) "Label" means a display of written, printed, or graphic matter on the immediate container of an article. "Immediate container" does not include package liners.

(22) "Labeling" means labels and other written, printed, or graphic matter:

(a) on an article or its containers or wrappers;

(b) accompanying the article.

(23) "Menu" means a list presented to the patron that states the food items for sale in a food service establishment.

(24) "New drug" means a drug, the composition of which:

(a) is not generally recognized among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs as safe and effective for use under the conditions prescribed, recommended, or suggested in the new drug's labeling; or

(b) has become recognized as a result of investigations to determine the new drug's safety and effectiveness for use under the conditions prescribed but has not, other than in the investigations, been used to a material extent or for a material time under the conditions prescribed.

(25) "Official compendium" means the official United States Pharmacopoeia, official National Formulary, or a supplement to either of these.

(26) (a) "Package" means a container or wrapping in which a consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers.

(b) The term does not include:

(i) shipping containers or wrappings used solely for the transportation of a consumer commodity in bulk or in quantity to manufacturers, packers, or processors or to wholesale or retail distributors;

(ii) shipping containers or outer wrappings used by retailers to ship or deliver a commodity to retail customers if the containers and wrappings bear no printed matter pertaining to a particular commodity.

(27) "Person" includes an individual, partnership, corporation, and association.

(28) "Pesticide chemical" means a substance that alone, in chemical combination, or in formulation with one or more other substances is an "economic poison" under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136, et seq.), as amended, and that is used in the production, storage, or transportation of raw agricultural commodities.

(29) "Placard" means a nonpermanent sign used to display or describe food items for sale in a food service establishment or retail meat establishment.

(30) "Principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

(31) "Processing" means cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, freezing, or otherwise manufacturing a food or changing the physical characteristics of a food and the enclosure of the food in a package.

(32) "Raw agricultural commodity" has the meaning as provided in 50-50-102.

(33) "Retail meat establishment" means a commercial establishment at which meat or meat products are displayed for sale or provision to the public, with or without charge.

(34) "Synthetically compounded" means a product formulated by a process that chemically changes a material or substance extracted from naturally occurring plant, animal, or mineral sources, except for microbiological processes."

Section 4. Section 50-31-203, MCA, is amended to read:

“50-31-203. When food misbranded. A food is considered to be misbranded if:

- (1) its labeling is false or misleading in any particular;
- (2) it is offered for sale under the name of another food;
- (3) it is an imitation of another food for which a definition and standard of identity has been prescribed by regulations as provided by 50-31-201 or if it is an imitation of another food that is not subject to subsection (7) of this section, unless its label bears in type of uniform size and prominence the word imitation and, immediately after that word, the name of the food imitated;
- (4) its container is made, formed, or filled in a manner that is misleading;
- (5) it is in package form, unless it bears a label containing:
 - (a) the name and place of business of the manufacturer, packer, or distributor;
 - (b) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided that reasonable variations must be permitted and exemptions as to small packages must be established by regulations prescribed by the department;
- (6) any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed on the label or labeling with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in terms that render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- (7) it purports to be or is represented as a food for which a definition and standard of identity have been prescribed by regulations as provided by 50-31-201, unless:
 - (a) it conforms to that definition and standard; and
 - (b) its label bears the name of the food specified in the definition and standard and, as may be required by the regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in the food;
- (8) it purports to be or is represented as:
 - (a) a food for which a standard of quality has been prescribed by regulations as provided by 50-31-201 and its quality falls below that standard, unless its label bears, in a manner and form that the regulations specify, a statement that it falls below that standard; or
 - (b) a food for which a standard or standards of fill of container have been prescribed by regulation as provided by 50-31-201 and it falls below the standard of fill of container applicable, unless its label bears, in a manner and form that the regulations specify, a statement that it falls below that standard;
- (9) it is not subject to the provisions of subsection (7) unless it bears labeling clearly giving:
 - (a) the common or usual name of the food, if there is one; and
 - (b) in case it is fabricated from two or more ingredients, the common or usual name of each ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings without naming each. To the extent that compliance with the requirements of this subsection (9)(b) is impractical or results in deception or unfair competition, exemptions must be established by regulations promulgated by the department. The requirements of this subsection (9)(b) do not apply to food products that are packaged at the direction of purchasers at retail at the time of sale, the ingredients of which are disclosed to the purchasers by other means in accordance with regulations promulgated by the department.

(10) it purports to be or is represented for special dietary uses, unless its label bears information concerning its vitamin, mineral, and other dietary properties that the department determines to be and by regulations prescribes as necessary in order to fully inform purchasers as to its value for special dietary uses;

(11) it bears or contains any artificial flavoring, artificial coloring, or chemical preservative unless it bears labeling stating that fact. To the extent that compliance with the requirements of this subsection is impracticable, exemptions must be established by regulations promulgated by the department. Butter, cheese, ice cream, and frozen desserts as described in 81-22-101 are exempt from label statements for artificial flavoring and artificial coloring.

(12) it is a product intended as an ingredient of another food and when used according to the directions of the purveyor will result in the final food product being adulterated or misbranded;

(13) it is a color additive, unless its packaging and labeling are in conformity with packaging and labeling requirements applicable to that color additive prescribed under the provisions of the federal act;

~~(14) it is a cell-cultured edible product labeled as meat but does not meet the definition of meat in 81-9-217. A cell-cultured edible product derived from meat muscle cells, fat cells, connective tissue, blood, or other meat components is not considered to be misbranded if it is labeled in accordance with 50-31-103 to indicate it is derived from those cells, tissues, blood, or components."~~

Section 5. Section 50-31-501, MCA, is amended to read:

"50-31-501. Prohibited acts. The following acts and the causing of the acts within the state of Montana are prohibited:

(1) the manufacture, sale or delivery, holding, or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded;

(2) the adulteration or misbranding of any food, drug, device, or cosmetic;

(3) the receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded and the delivery or proffered delivery of any food, drug, device, or cosmetic for pay or otherwise;

(4) the sale, delivery for sale, holding for sale, or offering for sale of any article in violation of 50-31-311;

(5) the dissemination of any false advertisement;

(6) the manufacture, sale or delivery, holding, or offering for sale of cell-cultured edible product pursuant to [section 1];

~~(6)(7)~~ the refusal to permit entry or inspection or to permit the taking of a sample, as authorized by 50-31-106;

~~(7)(8)~~ the giving of a guaranty or undertaking if the guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking signed by and containing the name and address of a person residing in the state of Montana and from whom the person received in good faith the food, drug, device, or cosmetic;

~~(8)(9)~~ the removal or disposal of a detained or embargoed article in violation of 50-31-509;

~~(9)(10)~~ the alteration, mutilation, destruction, obliteration, or commission of any other act with respect to a food, drug, device, or cosmetic or the removal, in whole or in part, of the labeling of a food, drug, device, or cosmetic if the act is done while the article is held for sale and results in the article being adulterated or misbranded;

~~(10)(11)~~ forging, counterfeiting, simulating, or falsely representing or, without proper authority, using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of this chapter or federal act;

(11)(12) using on the labeling of any drug or in any advertisement relating to the drug any representation or suggestion that an application with respect to the drug is effective under 50-31-311 or that the drug complies with the provisions of 50-31-311;

(12)(13) in the case of a prescription drug distributed or offered for sale in this state, the failure of the manufacturer, packer, or distributor to maintain for transmittal or to transmit to any practitioner, licensed by applicable law to administer the drug and who makes written request for information as to the drug, true and correct copies of all printed matter that is required to be included in any package in which that drug is distributed or sold or other printed matter as is approved under the federal act. This subsection does not exempt any person from any labeling requirement imposed by or under other provisions of this chapter.

(13)(14) placing or causing to be placed upon any drug, device, or container of a drug or device, with intent to defraud, the trade name, other identifying mark, or imprint of another or any likeness of the name, mark, or imprint;

(14)(15) selling, dispensing, disposing of, or causing to be sold, dispensed, or disposed of or concealing or keeping in possession, control, or custody, with intent to sell, dispense, or dispose of, any drug, device, or any container of the drug or device with knowledge that the trade name, other identifying mark, or imprint of another or any likeness of any of the foregoing has been placed on the drug, device, or container in a manner prohibited by subsection (13) (14);

(15)(16) making, selling, disposing of, or causing to be made, sold, or disposed of or keeping in possession, control, or custody or concealing, with intent to defraud, any punch, die, plate, or other thing designed to print, imprint, or reproduce a trade name, other identifying mark, or imprint of another or any likeness of the name, mark, or imprint upon any drug, device, or container of the drug or device;

(16)(17) the using by any person to the person's own advantage or revealing, other than to officers or employees of the department or the courts when relevant in any judicial proceeding under this chapter, any information acquired under authority of this chapter concerning any method or process that as a trade secret is entitled to protection;

(17)(18) the distribution in commerce of a consumer commodity if the commodity is contained in a package or if there is affixed to that commodity a label that does not conform to the provisions of this chapter and of regulations promulgated under authority of this chapter. This prohibition does not apply to persons engaged in business as wholesale or retail distributors of consumer commodities except to the extent that the persons:

- (a) are engaged in the packaging or labeling of the commodities; or
- (b) prescribe or specify by any means the manner in which the commodities are packaged or labeled.

(18)(19) the labeling or packaging of a food, drug, device, or cosmetic that fails to conform with the requirements of this chapter."

Section 6. Section 81-9-217, MCA, is amended to read:

"81-9-217. Definitions. As used in 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236, the following definitions apply:

(1) "Adulterated" means the term applied to meat if:

(a) it bears or contains a poisonous or deleterious substance that may render it injurious to health, except that if the substance is not an added substance, the product may not be considered adulterated if the quantity of the substance is insufficient to ordinarily render it injurious to health;

(b) it bears or contains, by reason of administration of any substance to the meat, an added poisonous or added deleterious substance other than a color

additive, a food additive, or a pesticide chemical in or on a raw agricultural commodity, any of which may in the board's judgment make the meat unfit for human food;

(c) it is in whole or in part a raw agricultural commodity and bears or contains a pesticide chemical that is unsafe as provided in the Federal Food, Drug and Cosmetic Act;

(d) it bears or contains a food additive that is unsafe as provided in the Federal Food, Drug and Cosmetic Act;

(e) it bears or contains a color additive that is unsafe as provided in the Federal Food, Drug and Cosmetic Act; however, the meat that is not otherwise considered adulterated under subsection (1)(c), (1)(d), or (1)(e) is considered adulterated if use of the pesticide chemical, food additive, or color additive in or on the article is prohibited by rule of the board;

(f) it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

(g) it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth or rendered injurious to health;

(h) it is in whole or in part the product of an animal, including poultry, that has died otherwise than by slaughter;

(i) its container is composed in whole or in part of any poisonous or deleterious substance that may render the contents injurious to health;

(j) it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to 21 U.S.C. 348; or

(k) any valuable constituent has been in whole or in part omitted or abstracted from the meat, any substance has been substituted wholly or in part for meat, damage or inferiority has been concealed in any manner, or any substance has been added to it or mixed or packed with it so as to increase its bulk or weight or make it appear better or of greater value than it is.

(2) "Cell-cultured edible product" ~~means the concept of meat, including but not limited to muscle cells, fat cells, connective tissue, blood, and other components produced via cell culture, rather than from a whole slaughtered animal~~ *has the same meaning as provided in 50-31-103.*

(3) "Chief" means the chief meat inspector appointed as provided in 81-9-226.

(4) "Federal Food, Drug and Cosmetic Act" means 21 U.S.C. 301 through 392, as that law read on October 1, 1987.

(5) "Livestock" means cattle, buffalo, sheep, swine, goats, horses, and mules or other equines, whether alive or dead.

(6) "Livestock product" or "poultry product" means a product capable of use as human food that is wholly or partially made from meat and is not specifically exempted by rule of the board.

(7) "Meat" means the edible flesh of livestock or poultry and includes livestock and poultry products. This term does not include cell-cultured edible products as defined in this section.

(8) "Misbranded" means the term applied to meat:

(a) if its labeling is false or misleading in any particular;

(b) if it is offered for sale under the name of another food;

~~(c) if it is not entirely derived from the edible flesh of livestock or poultry or livestock and poultry products. A cell-cultured edible product derived from meat muscle cells, fat cells, connective tissue, blood, or other meat components~~

is not considered to be misbranded if it is labeled in accordance with 50-31-103 to indicate it is derived from those cells, tissues, blood, or components.

~~(d)~~(c) if it is an imitation of a meat product, unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter the name of the food being imitated;

~~(e)~~(d) if its container is so made, formed, or filled as to be misleading;

~~(f)~~(e) if it does not bear a label showing:

(i) the name and place of business of the manufacturer, packer, or distributor; and

(ii) an accurate statement of the quantity of the product in terms of weight, measure, or numerical count. The board may adopt rules exempting small meat packages, meat not in containers, and other reasonable variations.

~~(g)~~(f) if any word, statement, or other information required by 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236 to appear on the label is not prominently placed on the label, as compared with other words, statements, designs, or devices in the labeling, and is not stated in terms that render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

~~(h)~~(g) if it is represented as a food for which a definition and standard of identity or composition has been prescribed by the rules of the board, unless:

(i) it conforms to the definition and standard; and

(ii) its label bears the name of the food specified in the definition and standard and, if required by the rules, the common names of optional ingredients present in the food, other than spices, flavoring, and coloring;

~~(i)~~(h) if it is represented as a food for which a standard of fill of container has been prescribed by rules of the board and it falls below the standard of fill of container applicable to the food, unless its label bears, in the manner and form that the rules specify, a statement that it falls below the standard;

~~(j)~~(i) if it is not subject to the provisions of subsection ~~(8)(h)~~ (8)(g), unless its label bears:

(i) the common or usual name of the food, if any; and

(ii) in case it is fabricated from two or more ingredients, the common or usual name of each ingredient, except that spices, flavorings, and colorings may, when authorized by the board, be designated as spices, flavorings, and colorings without naming each. To the extent that compliance with the requirements of this subsection ~~(8)(j)(ii)~~ (8)(i)(ii) is impracticable or results in deception or unfair competition, exemptions must be established by rules promulgated by the board.

~~(k)~~(j) if it purports to be for special dietary uses, unless its label bears information concerning its vitamin, mineral, and other dietary properties as the board, after consultation with the U.S. secretary of agriculture, by rule prescribes as necessary in order to fully inform purchasers as to its value for those uses;

~~(l)~~(k) if it bears or contains an artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact, provided that to the extent that compliance with the requirements of this subsection ~~(8)(l)~~ (8)(k) is impracticable, exemptions must be established by rules promulgated by the board; or

~~(m)~~(l) if it fails to bear directly on the meat and on its containers, as the board may by rule prescribe, the official inspection legend and establishment number of the establishment where the product was prepared and other information that the board may require to ensure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the meat in a wholesome condition.

(9) (a) “Mobile slaughter facility” means a mobile unit that is operated by a person licensed by the board to slaughter livestock or poultry, that is capable of providing onsite slaughter services for the owner of the livestock or poultry, and at which inspection of the slaughter of livestock or poultry or the preparation of meat food products is regulated under 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236.

(b) The term does not mean a person engaged in custom slaughtering as provided in 81-9-218(2).

(10) “Official establishment” means an establishment licensed by the board at which inspection of the slaughter of livestock or poultry or the preparation of meat food products is maintained under 81-9-216 through 81-9-220 and 81-9-226 through 81-9-236. The term includes a mobile slaughter facility.

(11) “Pesticide chemical”, “food additive”, “color additive”, and “raw agricultural commodity” have the same meanings as provided in 21 U.S.C. 321.

(12) “Poultry” means any domesticated bird, whether alive or dead.

(13) “Prepared” means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed.”

Section 7. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 50, chapter 31, part 5, and the provisions of Title 50, chapter 31, part 5, apply to [sections 1 and 2].

Approved May 1, 2025

CHAPTER NO. 277

[HB 403]

AN ACT REQUIRING THE MONTANA STATE HOSPITAL TO GRANT ACCESS TO A LEGISLATOR.

WHEREAS, the Montana State Hospital lost its federal certification from the Centers for Medicare and Medicaid Services in 2022 due to several patient health-related and safety-related factors, including a substantial number of deaths and falls; and

WHEREAS, many patients of Montana State Hospital live with traumatic brain injury, dementia, and other cognitive challenges that impede their ability to advocate for themselves; and

WHEREAS, legislators are called on by their constituents to advocate for and intervene on behalf of all Montanans, but especially those who are vulnerable.

Be it enacted by the Legislature of the State of Montana:

Section 1. Legislative access. (1) A legislator must have immediate, unlimited access at all times to the Montana state hospital.

(2) A legislator seeking access to the Montana state hospital is subject to routine security and safety procedures of the facility or program.

(3) While in the Montana state hospital, a legislator shall prioritize and respect the health, dignity, privacy, and welfare of Montana state hospital patients.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 53, chapter 21, part 6, and the provisions of Title 53, chapter 21, part 6, apply to [section 1].

Approved May 2, 2025

CHAPTER NO. 278

[HB 413]

AN ACT REVISING ELECTION LAWS RELATED TO RESIDENCY FOR TEMPORARY RESIDENTS; AMENDING SECTION 13-1-112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-1-112, MCA, is amended to read:

“13-1-112. Rules for determining residence. For registration, voting, or seeking election to the legislature, the residence of an individual must be determined by the following rules as far as they are applicable:

(1) The residence of an individual is where the individual's habitation is fixed and to which, whenever the individual is absent, the individual has the intention of returning.

(2) An individual may not gain or lose a residence while kept involuntarily at any public institution, not necessarily at public expense; as a result of being confined in any prison; or solely as a result of residing on a military reservation.

(3) (a) An individual in the armed forces of the United States may not become a resident solely as a result of being stationed at a military facility in the state.

(b) An individual may not acquire a residence solely as a result of being employed or stationed at a training or other transient camp maintained by the United States within the state.

(c) A member of a reserve component of the United States armed forces who is stationed outside of the state but who has no intent of changing residency retains resident status.

(4) An individual does not lose residence if the individual goes into another state or other district of this state for temporary purposes with the intention of returning, unless the individual exercises the election franchise in the other state or district.

(5) An individual may not gain ~~a residence~~ *residency* in a county *or the state of Montana* if the individual ~~comes in~~ *relocates* for temporary purposes, *such as temporary work, training, or an educational program*, without the intention of making that county *or the state* the individual's *permanent home at the conclusion of the temporary work, training, or educational program*.

(6) If an individual moves to another state with the intention of making it the individual's residence, the individual loses residence in this state.

(7) The place where an individual's family resides is presumed to be that individual's place of residence. However, an individual who takes up or continues a residence at a place other than where the individual's family resides with the intention of remaining is a resident of the place where the individual resides.

(8) A change of residence may be made only by the act of removal joined with intent to remain in another place.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 279

[HB 414]

AN ACT GENERALLY REVISING LAWS RELATED TO PROFESSIONAL LICENSING APPLICATIONS; REVISING LICENSING STATUTES FOR PROVISIONAL AND TEMPORARY LICENSES; CREATING STANDARDIZED PROCEDURES FOR PROVISIONAL LICENSES FOR ALL BOARDS AND PROGRAMS; UPDATING TERMINOLOGY FOR CLARITY AND REMOVING REDUNDANCIES; PROVIDING FOR REVIEW OF NONROUTINE OCCUPATIONAL LICENSING APPLICATIONS BY SCREENING PANELS OF LICENSING BOARDS; REMOVING DUPLICATIVE REFERENCES; AMENDING SECTIONS 37-1-131, 37-1-307, 37-1-319, 37-3-201, 37-4-201, 37-8-409, 37-8-421, 37-11-310, 37-14-102, 37-14-301, 37-14-305, 37-14-306, 37-14-307, 37-15-103, 37-17-302, 37-18-603, 37-19-402, 37-19-703, 37-27-105, 37-27-201, 37-27-203, 37-28-104, 37-31-302, 37-31-305, 37-31-312, 37-36-201, 37-40-203, 37-40-302, 37-49-202, 37-51-324, 37-54-212, 37-56-106, 37-60-303, 37-68-311, 37-69-306, AND 37-73-203, MCA; REPEALING SECTIONS 37-1-305, 37-4-341, 37-27-205, 37-73-208, AND 37-73-216, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Provisional license – limitations – validity – temporary license. (1) The department may issue a provisional license to an applicant whom the department has initially determined to be eligible for licensure, except for one or more of the following pending conditions:

(a) passage of the required licensure examination;
(b) completion of supervised work or educational experience as a license holder;

(c) facility or equipment inspection;
(d) verification of licensure in good standing from other licensing jurisdictions and applicable national licensing databases; or

(e) verification of absence of relevant criminal charges or other action.

(2) A board or a program may, by rule, prescribe the time, place, supervision, or other limitations respecting the provisional license.

(3) The provisional license is valid until the applicant is issued a license or until one or more of the following occurs:

(a) the applicant exceeds the prescribed time limit to complete the work experience or pass a licensure examination;

(b) the applicant substantially and materially fails an inspection;

(c) the applicant is found to have license discipline, criminal, or other action in conflict with information reported on the application; or

(d) the applicant fails to act timely to complete the required condition.

(4) On one or more of the occurrences in subsection (3), the department shall render the provisional license inactive without appeal or judicial review and notify the applicant of its decision.

(5) On registration with the department, individuals actively licensed in good standing in another state may practice in Montana up to 21 days in a calendar year without licensure in this state to provide education, continuity of treatment, treatment to underserved populations, or highly specialized treatment care to clients or patients. For the purposes of this section, good standing includes verification of licensure in another state and any applicable disciplinary data bank.

Section 2. Nonroutine application review by screening panel.

(1) A screening panel shall review all nonroutine applications on behalf of a board in accordance with the provisions of 37-1-307.

(2) A screening panel may grant, deny, or restrict a license and set conditions on a restricted license. The screening panel shall provide notice to the licensee or license applicant as provided in 37-1-309. If the license is not granted, the notice must set forth proposed restrictions on the license or that the license is denied.

(3) A licensee or license applicant may request a hearing in accordance with 37-1-309. Failure to request a hearing constitutes a default on the notice, and the screening panel's proposed restrictions or denial becomes the final order.

Section 3. Section 37-1-131, MCA, is amended to read:

"37-1-131. Duties of boards – quorum required. (1) Under the active supervision of the state as described in 37-1-121(1)(d), a quorum of each board within the department shall:

(a) (i) set and enforce standards and adopt and enforce rules governing the licensing, certification, registration, and conduct of the members of the particular profession or occupation within the board's jurisdiction; and

(ii) apply the standards and rules referred to in subsection (1)(a)(i) in a manner that does not discriminate against any person licensed by the board with regard to how the standards and rules are applied to other persons licensed by the board and that does not restrain trade or competition unless necessary to protect public health and safety;

(b) except as provided in 37-1-321, sit in judgment in hearings for the suspension, revocation, or denial of a license of an actual or potential member of the particular profession or occupation within the board's jurisdiction. The hearings must be conducted by a hearings examiner when required under 37-1-121.

(c) suspend, revoke, or deny a license of a person who the board determines, after a hearing as provided in subsection (1)(b), is guilty of knowingly defrauding, abusing, or aiding in the defrauding or abusing of the workers' compensation system in violation of the provisions of Title 39, chapter 71;

(d) take disciplinary action against the license of a person in a medical assistance program under chapter 3, 4, 7, or 8 if, in the period under contract, the licensee has on three separate occasions returned to the use of a prohibited or proscribed substance. The requirements of this subsection (1)(d) may not be construed as affecting the rights of an employer to evaluate, discipline, or discharge an employee.

(e) pay to the department the board's pro rata share of the assessed costs of the department under 37-1-101(6);

(f) consult with the department before the board initiates a program expansion, under existing legislation, to determine if the board has adequate money and appropriation authority to fully pay all costs associated with the proposed program expansion. The board may not expand a program if the board does not have adequate money and appropriation authority available.

(2) A board, board panel, or subcommittee convened to conduct board business must have a majority of its members, which constitutes a quorum, present to conduct business.

(3) A board that requires continuing education or continued state, regional, or national certification for licensees shall require licensees reactivating an expired license to submit proof of meeting the requirements of this subsection for the renewal cycle.

(4) The board under the active supervision of the state as described in 37-1-121(1)(d) or the department program may:

(a) establish the qualifications of applicants to take the licensure examination;

(b) determine the standards, content, type, and method of examination required for licensure or reinstatement of a license, the acceptable level of performance for each examination, and the standards and limitations for reexamination if an applicant fails an examination;

(c) examine applicants for licensure at reasonable places and times as determined by the board or enter into contracts with third-party testing agencies to administer examinations; and

(d) request that the applicant make a personal appearance before *the screening panel* of the board for nonroutine license applications as defined by the board.

(5) A board shall adopt rules governing the provision of public notice as required by 37-1-311."

Section 4. Section 37-1-307, MCA, is amended to read:

"37-1-307. Board authority. (1) A board may:

(a) hold hearings as provided in this part;

(b) issue subpoenas requiring the attendance of witnesses or the production of documents and administer oaths in connection with investigations and disciplinary proceedings under this part. Subpoenas must be relevant to the complaint and must be signed by a member of the board. Subpoenas may be enforced as provided in 2-4-104.

(c) authorize depositions and other discovery procedures under the Montana Rules of Civil Procedure in connection with an investigation, hearing, or proceeding held under this part;

(d) establish a screening panel to:

(i) *review nonroutine license applications to determine whether there is reasonable cause to believe that an applicant has violated a particular statute, rule, or standard justifying restriction or denial of licensure; and*

(ii) *determine whether there is reasonable cause to believe that a licensee has violated a particular statute, rule, or standard justifying disciplinary proceedings. A screening panel is an agency for purposes of summary suspensions under 2-4-631. A screening panel shall specify in writing the particular statute, rule, or standard that the panel believes may have been violated. The screening panel shall also state in writing the reasonable grounds that support the panel's finding that a violation may have occurred. The assigned board members may not subsequently participate in a hearing of the case. The final decision on the case must be made by a majority of the board members who did not serve on the screening panel for the case.;*

(e) grant or deny a license within 45 calendar days of receiving a complete application, including the confidential criminal justice information report, and notify an applicant within 10 days of receiving an application of any deficiencies for an incomplete application or provide information as to any exigent circumstances that may delay issuing a license in the 45 days; and

(f) ~~upon~~ *on* a finding of unprofessional conduct by an applicant or license holder, impose a sanction provided by this chapter.

(2) *A screening panel is an agency for the purposes of summary suspensions under 2-4-631. A screening panel shall specify in writing the particular statute, rule, or standard that the panel believes may have been violated. The screening panel shall also state in writing the reasonable grounds that support the panel's finding that a violation may have occurred. The assigned board members may not subsequently participate in a hearing of the case. The final decision on the case must be made by a majority of the board members who did not serve on the screening panel for the case.*

(3) Each board is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information, as defined in 44-5-103, regarding the board's licensees and license applicants and regarding possible unlicensed practice, but the board may not record or retain any confidential criminal justice information without complying with the provisions of the Montana Criminal Justice Information Act of 1979, Title 44, chapter 5.

(4) A board may contact and request information from the department of justice, which is designated as a criminal justice agency within the meaning of 44-5-103, for the purpose of obtaining criminal history record information regarding the board's licensees and license applicants and regarding possible unlicensed practice.

(5) (a) A board that is statutorily authorized to obtain a criminal record background report as a prerequisite to the issuance of a license shall require the applicant to submit a full set of fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation.

(b) The applicant shall sign a release of information to the board and is responsible to the department of justice for the payment of all fees associated with the criminal record background report.

(c) ~~Upon~~ *On* completion of the criminal record background check, the department of justice shall forward all criminal history record information, as defined in 44-5-103, in any jurisdiction to the board as authorized in 44-5-303.

(d) At the conclusion of any background check required by this section, the board must receive the criminal record background report but may not receive the fingerprint card of the applicant. ~~Upon~~ *On* receipt of the criminal record background report, the department of justice shall promptly destroy the fingerprint card of the applicant.

~~[(5)(6)]~~ Each board shall require a license applicant to provide the applicant's social security number as a part of the application. Each board shall keep the social security number from this source confidential, except that a board may provide the number to the department of public health and human services for use in administering Title IV-D of the Social Security Act.] (Bracketed language terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

Section 5. Section 37-1-319, MCA, is amended to read:

"37-1-319. Rules. A board may adopt rules:

(1) under the guidelines of 37-1-306, regarding continuing education and establishing the number of hours required each year, the methods of obtaining education, education topics, and carrying over hours to subsequent years;

~~(2) regarding practice limitations for temporary practice permits issued under 37-1-305 and designed to ensure adequate supervision of the practice until all qualifications for licensure are met and a license is granted;~~

(2) regarding qualifications for inactive license status that may require compliance with stated continuing education requirements and may limit the number of years a person may remain on inactive status without having to reestablish qualifications for licensure;

(3) regarding maintenance and safeguarding of client funds or property possessed by a licensee and requiring the funds or property to be maintained separately from the licensee's funds and property; and

(4) defining acts of unprofessional conduct, in addition to those contained in 37-1-316, that constitute a threat to public health, safety, or welfare and that are inappropriate to the practice of the profession or occupation."

Section 6. Section 37-3-201, MCA, is amended to read:

“37-3-201. Organization. (1)-(a) (1) The board shall elect from among its members a president, vice-president, and secretary.

(2) The board shall adopt a seal on which appear the words “The Board of Medical Examiners of Montana” and “Official Seal”.

~~(2) The board shall establish a screening panel for disciplinary matters as provided for in 37-1-307.”~~

Section 7. Section 37-4-201, MCA, is amended to read:

“37-4-201. Official seal – organization – subpoena power – screening panel. (1)-(a) (1) The board shall adopt an official seal of its own design and shall employ the seal to authenticate the board’s acts and records.

(2) The board shall, at its annual meeting, choose from its members a president, vice-president, and secretary-treasurer, who shall serve at the pleasure of the board.

(3) Any member of the board may administer oaths and affirmations, and the board may hear testimony and subpoena witnesses with respect to matters relating to the duties imposed ~~upon~~ on the board by law.

~~(2) The board shall establish a screening panel for disciplinary matters as provided for in 37-1-307 and shall authorize the screening panel to oversee any rehabilitation program established pursuant to 37-4-311.”~~

Section 8. Section 37-8-409, MCA, is amended to read:

“37-8-409. Advanced practice registered nursing – when professional nurse may practice. (1) A person licensed under this chapter who holds a certificate in a field of advanced practice registered nursing may practice in the specified field of advanced practice registered nursing ~~upon~~ on approval by the board of an amendment to the person’s license granting a certificate in a field of advanced practice registered nursing. The board shall grant a certificate in a field of advanced practice registered nursing to a person who submits written verification of certification by a board-approved national certifying body appropriate to the specific field of advanced practice registered nursing and who meets any other qualification requirements that the board prescribes.

(2) The board may give temporary approval to practice in a specific field of advanced practice registered nursing to a person who:

(a) intends to apply for approval under subsection (1); and

(b) has completed the advanced practice registered nursing education required in order for the person to apply to take the first national certification examination available from a board-approved national certifying body appropriate to the specific field of advanced practice registered nursing;

(3) If the person fails to obtain certification upon the person’s first examination, the temporary approval provided for in subsection (2) expires on receipt of the examination results. The temporary approval may not be extended.

(4) In order to protect the public, the board may, in consultation with persons in the specific field of advanced practice registered nursing, adopt specific rules for each field of advanced practice registered nursing for the granting of temporary approval to practice and for determining the supervision of the licensee with temporary approval.”

Section 9. Section 37-8-421, MCA, is amended to read:

“37-8-421. Temporary practice permit Supervision under provisional license practice. (1) The board shall issue a temporary practice permit to an individual licensed in another state that has licensing standards substantially equivalent to those of this state if the board determines that:

(a) the applicant has submitted a completed application as approved by the board;

(b) the initial screening by the board staff shows no current disciplinary action as identified by the board by rule; and

(c) there is no reason to deny a temporary practice permit under the laws of this state governing the practice of nursing;

(2) The individual may practice under a temporary practice permit until a license is granted, until a notice of proposal to deny a temporary practice permit is issued, or until the period of time adopted by the board by rule expires.

A nurse who ~~is employed~~ *practices nursing* under a temporary practice permit *provisional license while awaiting examination results* may function only under the supervision of a registered professional nurse, physician, dentist, osteopath, or podiatrist who, *during the nurse's practice*, is on the premises ~~where and when the permittee is working and who and~~ is specifically assigned the responsibility of supervising the ~~performance of the temporary practice permittee the nurse.~~

Section 10. Section 37-11-310, MCA, is amended to read:

"37-11-310. Foreign-trained applicants. The foreign-trained physical therapist applicant's transcripts will be evaluated by a board-approved agency ~~which that~~ reviews credentials. ~~Upon~~ *On* receipt of this evaluation the board shall determine whether the number of academic credits awarded meets equivalent educational standards for a physical therapist degree or certificate established by an American physical therapist association accredited school of physical therapy. If the applicant's professional education credit hours are approved by the board, the applicant is eligible for a ~~temporary provisional~~ license prior to examination."

Section 11. Section 37-14-102, MCA, is amended to read:

"37-14-102. Definitions. In this chapter, unless the context clearly requires otherwise, the following definitions apply:

(1) "Board" means the board of radiologic technologists provided for in 2-15-1738.

(2) "Department" means the department of labor and industry.

(3) "General supervision" means face-to-face communication, direction, observation, and evaluation by the radiologist at least monthly, with interim supervision occurring by other methods, such as telephonic, electronic, or written communication.

(4) "License" means an authorization issued by the department to perform x-ray procedures on persons.

(5) "Licensed practitioner" means a person licensed or otherwise authorized by law to practice medicine, dentistry, denturistry, dental hygiene, podiatry, osteopathy, or chiropractic.

(6) "*Limited permit*" means an authorization that may be granted by the board to perform an x-ray procedure on a person when the applicant's qualifications do not meet standards required for the issuance of a license.

(7) "Limited permit technician holder" means a person who does not qualify for the issuance of a license under the provisions of this chapter but who has demonstrated, to the satisfaction of the board, the capability of performing specified high-quality x-ray procedures without endangering public health and safety.

(8) "Performance of x-ray procedures" means the involvement or completion of any portion of an x-ray procedure that may have an effect on the patient's accumulated x-ray radiation exposure, including positioning of the patient, technique selection, selection of ancillary equipment, initiation of exposure, and darkroom procedures.

(8) “Permit” means an authorization that may be granted by the board to perform x-ray procedures on persons when the applicant’s qualifications do not meet standards required for the issuance of a license.

(9) “Radiologic technologist” means a person, other than a licensed practitioner, who has qualified under the provisions of this chapter for the issuance of a license to perform diagnostic x-ray procedures on persons and who performs the following functions in connection with the diagnostic procedure:

(a) operates x-ray equipment to reveal the internal condition of patients for the diagnosis of fractures, diseases, and other injuries;

(b) prepares and positions patients for x-ray procedures;

(c) selects the proper radiographic technique for visualization of specific internal structures of the human body;

(d) selects the proper ancillary equipment to be used in the x-ray procedure to enhance the visualization of the desired structure;

(e) prepares film processing solutions and develops or processes the exposed x-ray film; and

(f) inspects, maintains, and performs minor repairs to x-ray equipment.

(10) “Radiologist” means a person who is licensed to practice medicine under Title 37, chapter 3, who is board eligible or board certified by the American board of radiology, and who resides and practices in Montana.

(11) “Radiologist assistant” means an advanced-level licensed radiologic technologist who works under the supervision of a radiologist to enhance patient care by assisting the radiologist in the diagnostic imaging environment.”

Section 12. Section 37-14-301, MCA, is amended to read:

“37-14-301. Limitation of license authority – exemptions.

(1) A person may not perform x-ray procedures on a person unless licensed or granted a limited permit under this chapter, with the following provisos:

(a) Licensure is not required for:

(i) a student enrolled in and attending a school or college of medicine, osteopathy, podiatry, dentistry, dental hygiene, chiropractic, or radiologic technology who applies x-ray radiation to persons under the specific direction of a person licensed to prescribe examinations or treatment;

(ii) a person administering x-ray examinations related to the practice of dentistry or dentistry if the person is certified by the board of dentistry as having passed an examination testing the person’s proficiency to administer x-ray examinations;

(iii) a person who performs only darkroom procedures and is under the supervision of a licensed radiologic technologist or radiologist or is able to show evidence of completion of formal training in darkroom procedures as established by rule; or

(iv) a person who only operates industrial x-ray equipment that does not involve procedures administered on people.

(b) This chapter may not be construed to limit or affect in any respect the practice of their respective professions by licensed practitioners.

(2) A person licensed as a radiologic technologist may perform x-ray procedures on persons for medical, diagnostic, or therapeutic purposes under the specific direction of a person licensed to prescribe x-ray procedures.

(3) A radiologic technologist licensed under this chapter may inject contrast media and radioactive isotopes (radionuclide material) intravenously by the use of venous puncture and saline solution flush upon request and direction of a licensed practitioner. In the case of contrast media, the licensed practitioner requesting the procedure, the radiologist, or personnel trained in advanced cardiac life support must be immediately available in the facility. Injections must be for diagnostic studies only and not for therapeutic purposes.

Except as provided in 37-14-313, permitted injections include peripheral intravenous injections but specifically exclude intra-arterial injections. An uncertified radiologic technologist, a limited permit ~~technician holder~~ under 37-14-306, or an individual who is not licensed or authorized under a separate licensing act may not perform any of the activities listed in this subsection. A radiologist assistant licensed under 37-14-313 may give injections related to the procedures authorized by the board to be provided by a radiologist assistant without regard to the restrictions on radiologic technologists provided in this section, except that when contrast media is used, a licensed physician or additional medical personnel trained in advanced cardiac life support must be immediately available in the facility.”

Section 13. Section 37-14-305, MCA, is amended to read:

“**37-14-305. Issuance of license or *limited* permit – fee.** The board shall issue a license or *limited* permit to each applicant who has submitted a nonrefundable licensing fee set by the board and has met the requirements of this chapter.”

Section 14. Section 37-14-306, MCA, is amended to read:

“**37-14-306. Permits *Limited permits*.** (1) The board may issue a *limited* permit to an applicant not qualifying for the issuance of a license under the provisions of this chapter but who has demonstrated to the satisfaction of the board the capability of performing high-quality x-ray procedures without endangering public health and safety. An applicant shall demonstrate this capability by completion of formal classroom training that meets the standards established by rule and by means of examination. ~~Permits *Limited permits*~~ issued under ~~the~~ provisions of 37-14-305 and this section must specify x-ray procedures, defined and established by rule, that may be performed by the holder. ~~Permits *Limited permits*~~ are valid for a period not to exceed 12 months but may be renewed under the provisions established by rule.

~~(2) An applicant meeting minimum requirements for licensure must be issued a temporary permit to work as a radiologic technologist. This temporary permit expires 15 days after the date of first opportunity for examination.~~

~~(3) The board shall issue temporary permits to unlicensed persons to perform x-ray procedures when adequate evidence is provided to the board that a temporary permit is necessary because of a regional hardship or emergency condition and that the prospective recipient of a temporary permit is capable of performing x-ray procedures without endangering public health and safety. Temporary permits may not exceed 12 months in duration but may be renewed by reestablishing to the board's satisfaction evidence of continued regional hardship or emergency conditions. The required adequate evidence of regional hardship, emergency conditions, and capability to perform x-ray procedures without endangering public health and safety must be established by rule.~~

~~(2) Each applicant for a *limited* permit must:~~

~~(a) *must* be of good moral character;~~

~~(b) *must* be at least 18 years of age; and~~

~~(c) *may* not be addicted to intemperate use of alcohol or narcotic drugs.”~~

Section 15. Section 37-14-307, MCA, is amended to read:

“**37-14-307. Duty to carry or display license or *limited* permit.** Each radiologic technologist or limited permit ~~technician holder~~ shall carry or display the person's license or *limited* permit while at work. The license or *limited* permit must be displayed on request.”

Section 16. Section 37-15-103, MCA, is amended to read:

“**37-15-103. Exemptions – rulemaking.** (1) This chapter does not prevent a person licensed in this state under any other law from engaging in the profession or business for which that person is licensed.

(2) This chapter does not restrict or prevent activities of a speech-language pathology or audiology nature or the use of the official title of the position for which the activities were performed on the part of a speech-language pathologist or audiologist employed by federal agencies.

(3) Those persons performing activities described in subsection (2) who are not licensed under this chapter may perform those activities only within the confines of or under the jurisdiction of the organization in which they are employed and may not offer speech-language pathology or audiology services to the public for compensation over and above the salary they receive for performance of their official duties with organizations by which they are employed. However, without obtaining a license under this chapter, these persons may consult or disseminate their research findings and scientific information to other accredited academic institutions or governmental agencies. They also may offer lectures to the public for a fee without being licensed under this chapter.

(4) This chapter does not restrict the activities and services of a student in speech-language pathology or audiology from pursuing a course of study in speech-language pathology or audiology at an accredited or approved college or university or an approved clinical training facility. However, these activities and services must constitute a part of a supervised course of study, and a fee may not accrue directly or indirectly to the student. These students must be designated by the title "speech-language pathology or audiology intern", "speech-language pathology or audiology trainee", or a title clearly indicating the training status appropriate to the level of training.

(5) ~~This Except as provided in [section 1], this chapter does not restrict a person from another state from offering speech-language pathology or audiology services in this state if the services are performed for not more than 5 days in any calendar year and if the services are performed in cooperation with a speech-language pathologist or audiologist licensed under this chapter. However, by securing a temporary license from the board subject to limitations that the board may impose, a person not a resident of this state who is not licensed under this chapter but who is licensed under the law of another state that has established licensure requirements at least equivalent to those established by this chapter may offer speech-language pathology or audiology services in this state for not more than 30 days in any calendar year if the services are performed in cooperation with a speech-language pathologist or audiologist licensed under this chapter.~~

(6) This chapter does not restrict a person holding a class A certificate issued by the conference of executives of American schools of the deaf from performing the functions for which the person qualifies.

(7) This chapter does not restrict a person who is licensed in this state as a hearing aid dispenser from performing the functions for which the person qualifies and that are described in Title 37, chapter 16.

(8) (a) An audiologist who orders, sells, dispenses, or fits prescription hearing aids is exempt from the licensing requirements or other provisions of Title 37, chapter 16.

(b) The board may adopt rules pertaining to the selling, dispensing, and fitting of prescription hearing aids and prescription hearing aid parts, attachments, and accessories."

Section 17. Section 37-17-302, MCA, is amended to read:

"37-17-302. Qualifications. The board shall license as a psychologist any person who pays the prescribed fee, passes the prescribed examination, and submits evidence that the person:

(1) is 18 years of age or older;

(2) is of good moral character;

(3) (a) has received a doctoral degree in clinical psychology from an accredited college or university having an appropriate graduate program approved by the American psychological association;

(b) has received a doctoral degree in psychology from an accredited college or university not approved by the American psychological association and has successfully completed a formal graduate retraining program in clinical psychology approved by the American psychological association; or

(c) has received a doctoral degree in psychology from an accredited college or university and has completed a course of studies that meets minimum standards specified in rules by the board; and

(4) has completed at the time of application a minimum of 2 years of supervised experience in the practice of psychology. One year of this experience must be postdoctoral but may not include more than 6 months of supervised research, teaching, or a combination of both.

(5) An individual who has completed the education requirements under this section but who has not completed the postdoctoral supervised psychology practice may apply for a provisional license to practice psychology pursuant to [section 1] and an approved supervision plan prescribed by board rule."

Section 18. Section 37-18-603, MCA, is amended to read:

"37-18-603. Powers of board – euthanasia certification. The board may:

(1) establish qualifications and prescribe the application format for certification as a certified agency or as a certified euthanasia technician and review each application for compliance with certification requirements;

(2) examine and determine the qualifications and fitness of applicants to operate as a certified agency or as a certified euthanasia technician;

(3) issue, renew, reinstate, deny, suspend, require voluntary surrender of, or revoke any certifications ~~or temporary permits~~ or impose other forms of discipline and enter into consent agreements and negotiated settlements with certified agencies or certified euthanasia technicians consistent with the provisions of this chapter and rules adopted pursuant to Title 37, chapter 1, and this chapter;

(4) establish a schedule of fees for certifying agencies and euthanasia technicians, ensuring that the fees are commensurate with the costs of the certification program;

(5) establish a list of controlled substances approved for the purpose of euthanasia;

(6) adopt other rules that the board or department considers necessary for the implementation of this part; and

(7) inspect any certified agency's controlled substance storage, inventory, administration procedures, and recordkeeping."

Section 19. Section 37-19-402, MCA, is amended to read:

"37-19-402. Operator's license requirements – facility inspections – transfer of license to new facility. (1) The operation of a mortuary is prohibited by anyone not holding a mortician's license.

(2) A license to operate a new mortuary facility in Montana may be issued only if the proposed mortuary facility meets standards for operating mortuaries adopted by the board.

(3) (a) An applicant for a license to operate a new mortuary shall send to the department a written and verified application on a form prescribed by the board. The application must be accompanied by an initial inspection fee.

(b) The department shall inspect the proposed new mortuary and report its findings to the board.

(4) The board shall grant a license if the department determines that the proposed new facility meets the standards adopted by the board and will be operated by a person who has been issued a mortician's license.

~~(5) The board may grant a temporary license to a mortuary until the initial inspection is completed.~~

(5) A mortuary license may be transferred from one facility to another only when the proprietor of a licensed facility terminates services at the licensed facility and commences services at a new facility. The new facility must be inspected and must meet standards for operating mortuaries.

(6) A mortuary may be inspected by members of the board or their representatives during business hours."

Section 20. Section 37-19-703, MCA, is amended to read:

"37-19-703. Application -- power of board to set standards -- inspection -- fees. (1) Application for a crematory, crematory operator, or crematory technician license must be on forms prescribed by the board and must include the name of the applicant, name of the crematory facility, location of the crematory facility and its mailing address, and any further information the board requires. To be eligible for licensure:

(a) as a crematory facility, an application must include a description of the type of structure and equipment to be used in the operation of the crematory facility;

(b) as a crematory operator, an applicant must be at least 18 years of age, must be a high school graduate or have an equivalent degree, and must be of good moral character.

(2) The application must be accompanied by an application fee set by the board.

(3) The board must be notified of any change of ownership of a crematory within 30 days of the change.

(4) A license to operate a crematory in Montana may be issued only ~~upon~~ *on* inspection of the crematory facility and ~~upon~~ *on* a finding of compliance with standards for operation set by the board.

~~(5) A temporary permit may be issued to operate a crematory facility, as prescribed by board rule, that is effective until the initial inspection is completed to the board's satisfaction.~~

(5) A crematory facility may be inspected by a board member or the board's designated representative during business hours.

(6) The board shall adopt rules governing the cremation of human remains, the transportation of human remains, sanitation, equipment, fire protection, building construction, and recordkeeping.

(7) A crematory facility shall comply with all local building codes, environmental standards, and applicable state and local regulations.

(8) A new crematory facility shall pay an initial inspection fee, set by the board, that must accompany the application."

Section 21. Section 37-27-105, MCA, is amended to read:

"37-27-105. General powers and duties of board -- rulemaking authority. (1) The board shall:

(a) meet at least once annually, and at other times as agreed ~~upon~~ *on*, to elect officers and to perform the duties described in Title 37, chapter 1, and this section; and

(b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties.

(2) The board has the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.

(3) The board shall adopt rules to administer this chapter. The rules may include but are not limited to:

(a) the establishment of criteria for minimum educational, ~~apprenticeship~~, and clinical requirements that, at a minimum, meet the standards established in 37-27-201;

(b) the development of eligibility criteria for client screening by direct-entry midwives to achieve the goal of providing midwifery services to women during low-risk pregnancies;

(c) the establishment of the circumstances that constitute a low risk of adverse birth outcomes for planned home births attended by direct-entry midwives;

(d) the development of standardized informed consent and reporting forms;

(e) the adoption of ethical standards for licensed direct-entry midwives; *and*

(f) the adoption of supporting documentation requirements for primary birth attendants; ~~and~~

~~(g) the establishment of criteria limiting an apprenticeship that, at a minimum, meets the standards established in 37-27-201."~~

Section 22. Section 37-27-201, MCA, is amended to read:

"37-27-201. Qualifications of applicants for license – educational and practical experience requirements – *provisional license*. (1) To be eligible for a license as a direct-entry midwife, an applicant:

(a) must possess a high school diploma or its equivalent;

(b) must be of good moral character and be at least 21 years of age;

(c) shall satisfactorily complete educational requirements in pregnancy and natural childbirth, approved by the board, which must include but are not limited to the following:

(i) provision of care during the antepartum, intrapartum, postpartum, and newborn period;

(ii) parenting education for prepared childbirth;

(iii) observation skills;

(iv) aseptic techniques;

(v) management of birth and immediate care of the mother and the newborn;

(vi) recognition of early signs of possible abnormalities;

(vii) recognition and management of emergency situations;

(viii) special requirements for home birth;

(ix) intramuscular and subcutaneous injections;

(x) suturing necessary for episiotomy repair;

(xi) recognition of communicable diseases affecting the pregnancy, birth, newborn, and postpartum periods;

(xii) assessment skills; and

(xiii) the use and administration of drugs authorized in 37-27-302;

(d) shall acquire practical experience, which may be attained in a home, clinic, or hospital setting. Practical experience attained in a hospital does not constitute training or supervision by the hospital, nor may a hospital be required to provide practical experience. At a minimum, this experience must include the following types and numbers of experiences acquired through an apprenticeship or other supervisory setting:

(i) provision of 100 prenatal examinations;

(ii) observation of 40 births; and

(iii) participation as the primary birth attendant at 25 births, 15 of which included continuous care, as evidenced by:

(A) birth certificates from Montana or another state;

(B) a signed affidavit from the birthing mother; or

~~(iii)~~(C) documented records from the person who supervised the births;

(e) shall file documentation with the board that the applicant has been certified by the American heart association or American red cross to perform adult and infant cardiopulmonary resuscitation. Certification must be current at the time of application and remain valid throughout the license period; and

(f) shall file documentation with the board that the applicant has been certified by the American academy of pediatrics or the American heart association to perform neonatal resuscitation. The applicant's certification must be current at the time of application and remain valid throughout the license period.

(2) An applicant who has completed the education requirements toward certification but has not completed the practical experience may apply for a provisional license under [section 1] and as prescribed by board rule."

Section 23. Section 37-27-203, MCA, is amended to read:

"37-27-203. Examination -- exemption. (1) Except as provided in subsection (4), an applicant for a license as a direct-entry midwife shall pass a qualifying, written examination, prescribed by the board, that is designed to test knowledge of theory regarding pregnancy and childbirth and to test clinical judgment in midwifery management. If considered necessary, an oral interview may be conducted in addition to the written examination to determine the fitness of the applicant to practice as a direct-entry midwife.

(2) Before an applicant may take the examination, the applicant shall demonstrate to the board that the educational and practical experience requirements in 37-27-201(3)(1)(c) and (4) (1)(d) have been met.

(3) An applicant is exempt from the educational and practical experience requirements of 37-27-201(1)(c) and (4) (1)(d) if the applicant has:

(a) satisfactorily completed the first examination given by the board following July 1, 1991; and

(b) filed supporting documentation, as required by the board by rule, certifying that the applicant has served as the primary birth attendant, providing continuous care at no less than 75 births within the 7 years prior to July 1, 1991, as verified by birth certificates from Montana or another state, a signed affidavit from the birthing mother, or documented records from the midwife.

(4) Upon payment of the license fee established by the board, a nurse-midwife certified pursuant to 37-8-409 is exempt from the requirements of 37-27-201 and this section and may be licensed as a direct-entry midwife."

Section 24. Section 37-28-104, MCA, is amended to read:

"37-28-104. Board powers and duties. (1) The board shall license; ~~grant temporary permits;~~ and renew the licenses ~~or permits~~ of duly qualified applicants.

(2) The board may adopt rules necessary to implement the provisions of this chapter."

Section 25. Section 37-31-302, MCA, is amended to read:

"37-31-302. License required to practice, teach, or operate salon, shop, booth, or school. (1) A person may practice barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring with a license as provided for in 37-31-304.

(2) A person may teach barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring with a license as provided for in 37-31-311.

(3) A place may be used to teach barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring for compensation with a license as provided for in 37-31-311.

(4) A person may operate or manage a salon or shop with a license or a ~~temporary operating permit~~ *provisional license* as provided in 37-31-312.

(5) A person may not manage or operate a booth without a booth rental license.

(6) A person, firm, partnership, corporation, or other legal entity desiring to operate a salon, shop, or booth shall apply to the department for a license. The application must be accompanied by the license fee.

(7) A license may be issued when the inspection fees required in 37-31-312 have been paid.”

Section 26. Section 37-31-305, MCA, is amended to read:

“37-31-305. Qualifications of applicants for license to teach – provisional teaching license. (1) An applicant for a license to teach under this chapter ~~licensure to teach the professions in this chapter must:~~

(a) ~~must have a license to practice issued by the department in the particular area of practice or scope of practice, in which in the same profession the person plans to teach;~~

(b) ~~must have been actively engaged in that particular area of practice have practiced under the license in subsection (1)(a) for 12 continuous months before taking the teacher’s examination;~~

(c) ~~must have:~~

(c) ~~have completed teacher training and received a diploma from a school authorized to offer a course of study in teacher training as prescribed by the board by rule; or board-approved teacher course; and~~

(d) ~~have passed the board-approved examination.~~

(2) ~~have An applicant who meets the criteria in subsection (1)(a) but has 3 or more years of experience in that particular area of practice. A person who qualifies for a license under this subsection (1)(c)(ii) has 2 years to complete board-approved coursework related to teaching methodology before a license to teach is renewed practice in the profession the applicant plans to teach is eligible for a nonrenewable, 2-year provisional license as a teacher while completing board-approved coursework related to teaching methodology in lieu of a diploma in subsection (1)(c).~~

(d) ~~except as provided in subsection (2), must have passed the examination prescribed by the board by rule to qualify for licensure; and~~

(e) ~~shall file an application provided by the board.~~

(3) The board shall issue a license to teach under this chapter, without examination, to a person licensed in another state if the board determines that:

(a) the other state’s course of study hour requirement is equal to or greater than the hour requirement in this state; and

(b) the person’s license from the other state is current and the person is not subject to pending or final disciplinary action for unprofessional conduct or impairment.”

Section 27. Section 37-31-312, MCA, is amended to read:

“37-31-312. Inspection – temporary permits provisional licenses.

(1) The department shall appoint one or more inspectors, each of whom shall devote time to inspecting salons or shops and performing other duties as the department, in cooperation with the board, may direct. The inspectors may enter a salon or shop, booth, or school during business hours for the purpose of inspection. The refusal of a licensee or school to permit the inspection during business hours is cause for license revocation.

(2) When an owner or operator applies for a shop or salon license and pays licensure and inspection fees prescribed by the board, the board:

(a) may authorize the department to grant to a new salon or shop a ~~temporary operating permit~~ *provisional license under [section 1]; or*

(b) shall, in order to avoid a disruption of business, authorize the department to grant a ~~temporary operating permit~~ *provisional license* to an existing shop

or salon whose owner or operator is currently in good standing with the board, as defined by the board by rule, and who is relocating to a new location. An owner or operator of an existing shop or salon may not receive a ~~temporary operating permit~~ *provisional license* under this section within 90 days of a license renewal date.

(3) A ~~temporary operating permit~~ *provisional license* granted pursuant to subsection (2) authorizes the salon, or shop to operate until an inspection is conducted of the salon or shop and the salon or shop owner or manager has had 30 days to respond in writing to all inspection report violations to the board office. A license will not be granted to a salon or shop if the board does not receive a response within 30 days from the date of the inspection or the response received does not indicate that all of the inspection violations have been corrected, in which case a new license application must be filed. A ~~temporary permit is not renewable.~~

(4) The department shall require an inspector appointed under subsection (1) to conduct an annual inspection of each salon or shop in the state.”

Section 28. Section 37-36-201, MCA, is amended to read:

“37-36-201. Qualifications – temporary license – exemption from examination. (1) Applicants for licensure as an athletic trainer shall:

(a) satisfactorily complete an application and an examination prescribed by the department in accordance with rules adopted by the board;

(b) pay application, examination, and licensure fees established by the board;

(c) provide documentation that the applicant has received at least a baccalaureate degree from a postsecondary institution that meets the academic standards for athletic trainers established by the national athletic trainers’ association board of certification;

(d) provide the board with letters of recommendation from at least two clinical supervisors familiar with the applicant’s clinical training and other documentation by which the board may determine that an applicant has not had a criminal conviction or disciplinary action taken against the applicant by a board or a licensing agency in another state or territory of the United States that may have a direct bearing on the applicant’s ability to practice athletic training competently.

(2) (a) The board may issue a temporary license to an applicant who:

(i) ~~meets the qualifications in subsections (1)(b) through (1)(d) but has not yet met the examination requirement in subsection (1)(a); or~~

(ii) ~~has a valid license from another state or certification as provided in subsection (3)(a) or (3)(b).~~

~~(b) A temporary license issued under this section is valid after the date of issuance for 90 days or until the board acts on the person’s license application, whichever is earlier.~~

(2) An applicant may be exempted from the examination requirement in subsection (1)(a) if the applicant:

(a) has a current, valid license to practice athletic training in another state and that state’s standards, as determined by the board, are at least equal to the standards for licensure in this state; or

(b) is certified as an athletic trainer by an organization recognized by the national commission for certifying agencies.”

Section 29. Section 37-40-203, MCA, is amended to read:

“37-40-203. Rulemaking power. (1) The department may adopt rules, consistent with the purposes of this chapter, as it considers necessary.

(2) The department shall adopt rules:
governing educational equivalency requirements, as provided in 37-40-302,
for registration of sanitarians; ~~and~~

~~(b) defining qualifications for sanitarian-in-training status for issuance of
the initial permit."~~

Section 30. Section 37-40-302, MCA, is amended to read:

**"37-40-302. Application -- examination -- certificate -- provisional
license.** (1) A person wishing to practice the profession of sanitarian may
apply to the department on a form furnished by the department.

(2) An applicant must have a minimum of a bachelor's degree in
environmental health or its equivalent from an accredited university or college.

(3) If the applicant meets the department's standards and passes the
examination prescribed by the department, the department shall issue a
certificate of registration.

*(4) An applicant may apply for a provisional license under [section 1] while
completing educational requirements as prescribed by board rule.*

(5) A holder of a current certificate is entitled to append to the holder's
name the initials "R.S."

Section 31. Section 37-49-202, MCA, is amended to read:

**"37-49-202. Licensure requirements -- examination -- fees =
temporary practice.** (1) The department shall license as a genetic counselor
an applicant who:

(a) submits an application and pays the fee required by the department;

(b) provides satisfactory evidence of having received certification from the
American board of genetic counseling as a genetic counselor; and

(c) complies with other requirements established by the department by
rule.

(2) The department may issue:

~~(a) a temporary license to an applicant to whom the American board of
genetic counseling has granted active candidate status; and a license to an
applicant who satisfactorily demonstrates that the applicant is licensed or
registered under the laws of another state, territory, or jurisdiction of the
United States that in the department's opinion imposes substantially the same
requirements for licensure as are required under this chapter.~~

~~(3) A temporary license expires automatically on the earliest of the
following:~~

~~(a) issuance of a full license to a person who successfully passes the
American board of genetic counseling certification exam; or~~

~~(b) at the time a person loses active candidate status for failure to complete
or pass the American board of genetic counseling certification exam.~~

(3) Licenses issued under this section are valid for the period established
by the department by rule and may be renewed only on the filing of a renewal
application and payment of the license renewal fee.

(4) An applicant shall submit an application fee in the amount established
by the department by rule and a written application on a form provided by
the department that demonstrates the applicant has completed the eligibility
requirements and competency standards required under this chapter and by
the department by rule.

(5) The department may not license an applicant who has:

(a) committed any act that if committed by a licensee would be grounds for
license suspension or revocation; or

(b) misrepresented any material fact on the application."

Section 32. Section 37-51-324, MCA, is amended to read:

“37-51-324. Penalty for failure to comply with trust account requirements. (1) An employee of the department may issue a citation to a broker responsible for maintenance of a trust account for failure to comply with trust account maintenance requirements as provided by rule under 37-1-319(4)(3).

(2) The citation must include:

(a) the time and date on which the citation is issued;

(b) the name, title, mailing address, and signature of the person issuing the citation;

(c) reference to the statute or rule violated;

(d) the name, title, and mailing address of the person to whom the citation is being sent, along with information explaining the procedure for the person receiving the citation to follow to pay the fine or dispute the violation; and

(e) the amount of the applicable fine.

(3) The applicable civil fine for failure to comply with trust account maintenance requirements is \$50 for each cited violation.

(4) The person who issues the citation is authorized to collect the fine and deposit the proceeds in the state special revenue account to the credit of the board.

(5) The person who is issued a citation may pay the fine or file a written dispute of the violation with the board within 5 business days of the date of issuance.

(6) A person who refuses to sign and accept a citation but who does not file a written dispute of the violation is demonstrating unprofessional conduct.”

Section 33. Section 37-54-212, MCA, is amended to read:

“37-54-212. Temporary registration of certification and licensure of permit practice by out-of-state appraisers. (1) ~~The board shall recognize on a temporary basis the certificate or license of an appraiser issued by another state if:~~ *In accordance with policy statements issued by the appraisal subcommittee of the federal financial institutions examination council under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and without regard to the provisions of [section 1], the department shall issue a temporary practice permit to an appraiser licensed or certified in another state if:*

(a) ~~the appraiser’s business in this state is of a temporary nature; and~~

(1) ~~the appraiser registers with the board; and~~

(2) ~~The out-of-state appraiser shall submit an application for temporary registration on a form prescribed by the board and pay the required fee. In addition, a letter of good standing or license history indicating that the applicant is currently in good standing must be submitted directly to the board’s office from the applicant’s state of certification or licensure, or the board may obtain a national registry appraiser license history report. the license or certificate is currently in good standing as verified by the national registry of appraisers.~~

(3) ~~The temporary registration is valid only for a single appraisal assignment within this state. The temporary registration may be awarded for a 6-month period and renewed one time within the 12-month period following the original date on which the temporary registration was issued.~~

(4) ~~A single appraisal assignment may include one or more properties under a single contract with a single client.”~~

Section 34. Section 37-56-106, MCA, is amended to read:

“37-56-106. Penalty for failure to comply with trust account requirements. (1) An employee of the department may issue a citation to a

property manager responsible for maintenance of a trust account for failure to comply with trust account maintenance requirements as provided by rule under 37-1-319(4)(3).

(2) The citation must include:

(a) the time and date on which the citation is issued;

(b) the name, title, mailing address, and signature of the person issuing the citation;

(c) reference to the statute or rule violated;

(d) the name, title, and mailing address of the person to whom the citation is being sent, along with information explaining the procedure for the person receiving the citation to follow to pay the fine or dispute the violation; and

(e) the amount of the applicable fine.

(3) The applicable civil fine for failure to comply with trust account maintenance requirements is \$1,000 for each cited violation.

(4) The person who issues the citation is authorized to collect the fine and deposit the proceeds in the state special revenue account to the credit of the board.

(5) The person who is issued a citation may pay the fine or file a written dispute of the violation with the department within 5 business days of the date of issuance.

(6) A person who refuses to sign and accept a citation but who does not file a written dispute of the violation is demonstrating unprofessional conduct.”

Section 35. Section 37-60-303, MCA, is amended to read:

“37-60-303. Private security services licensure qualifications – fingerprinting – insurance. (1) An applicant for licensure as a private investigator, private security firearms instructor, private security guard, registered process server, or security alarm installer shall submit evidence satisfactory to the department that the applicant:

(a) is at least 18 years of age;

(b) has completed high school or equivalent education;

(c) meets character and fitness for licensure as demonstrated by a lack of unprofessional conduct; and

(d) has successfully completed training, experience, and examination requirements as the department may prescribe by rule.

(2) In accordance with 34 U.S.C. 40316, the department shall require private investigator, private security firearms instructor, private security guard, registered process server, and security alarm installer license applicants to submit a full set of fingerprints to obtain a national criminal history background check by the Montana department of justice and the federal bureau of investigation for the purposes of licensure.

(3) An applicant for licensure as a private security firm must:

(a) be lawfully organized and registered with the secretary of state or otherwise qualified to do business within this state; and

(b) designate a manager to act as the primary contact between the firm and the department.

(4) *An applicant for a private investigator license who has not met the training and examination requirements may apply for a provisional license subject to [section 1] and as prescribed by department rule.”*

Section 36. Section 37-68-311, MCA, is amended to read:

“37-68-311. Application fee – license fee. (†) Master electricians and journeyman or residential electricians installing or intending to install for hire electric wiring or equipment to convey electric current or apparatus to be operated by electric current shall apply for a license to the department. The application must be on a form furnished by the department and must be

accompanied by an application fee set by the board. The forms must state the applicant's full name and address, the extent of work experience, and other information required by the board. If the applicant has complied with the rules adopted by the board and, being qualified, has successfully completed the examination, the department shall issue the proper license to the applicant.

~~(2) In addition to the temporary permits authorized in 37-1-305, the board may, in accordance with criteria determined by the board, issue a second temporary practice permit for a person who fails the first license examination and who submits a temporary practice permit fee with a request for a second temporary practice permit to the board stating that the person intends to retake the license examination within 3 months of failing the first examination."~~

Section 37. Section 37-69-306, MCA, is amended to read:

"37-69-306. Examination -- issuance of license. (1) An applicant for a license to work in the field of plumbing must be examined as to the applicant's qualifications by the department, subject to 37-1-101(4). The department shall examine each applicant for a license to determine the applicant's skill and qualifications as a master plumber or journeyman plumber.

(2) The applicant must, ~~upon~~ *on* successfully passing an examination prescribed by the board, be issued a license authorizing the applicant to engage in the field of plumbing as a master plumber or journeyman plumber in the state of Montana.

(3) In the case of a firm or corporation, the examination and issuance of a license to an individual of the firm or to a principal of the firm or corporation satisfies the requirements of this chapter as to master plumbers but not as to journeyman plumbers. An individual, firm, or corporation may not do the work of a master plumber unless licensed under this chapter.

~~(4) In addition to the temporary permits authorized in 37-1-305, the board may, on a case-by-case basis at the board's discretion in accordance with criteria determined by the board, renew a temporary practice permit for a person who fails the first license examination for which the person is eligible."~~

Section 38. Section 37-73-203, MCA, is amended to read:

"37-73-203. Elevator mechanic's license -- limited mechanic's license. (1) A person intending to work as an elevator mechanic shall file a license application with the department on forms furnished by the department.

(2) Except as provided in subsection (3), an applicant shall furnish proof, under oath, that the person:

(a) has successfully completed a state-approved apprenticeship or other education program that meets requirements established by the department by rule; or

(b) has at least 3 years of experience, verified by current and previous employers, working with equipment subject to the provisions of Title 50, chapter 60, part 7, and has passed the examination provided for in 37-73-204.

(3) The department shall adopt rules for the licensure, without examination, of an applicant who can demonstrate that the applicant has worked continuously as an elevator mechanic for the 3 years prior to October 1, 2005, and has the requisite experience for licensure. An applicant under this section shall pay the required application fee and shall submit any required proof under oath.

(4) The department shall issue an elevator mechanic's license to an applicant that meets the requirements of this section.

(5) (a) The department may issue a limited mechanic's license to an applicant that authorizes a licensee to work only on platform lifts, stairway chairlifts, and dumbwaiters that are installed in private residences.

(b) The examination for a limited mechanic's license must be based on the applicable codes for the equipment that a licensee is authorized to install.

(c) The department shall issue a limited mechanic's license to an applicant that meets the requirements of this subsection (5).

(6) An elevator inspector who is not certified may conduct inspections under the supervision of certified personnel for up to 6 months under a provisional license in accordance with [section 1]."

Section 39. Repealer. The following sections of the Montana Code Annotated are repealed:

37-1-305. Temporary practice permits.

37-4-341. Licensure of out-of-state volunteer dentists and dental hygienists without examination.

37-27-205. Provisional license -- apprentice license.

37-73-208. Elevator inspector's license -- temporary license.

37-73-216. Temporary elevator mechanic's license.

Section 40. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 37, chapter 1, part 1, and the provisions of Title 37, chapter 1, part 1, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 37, chapter 1, part 3, and the provisions of Title 37, chapter 1, part 3, apply to [section 2].

Approved May 1, 2025

CHAPTER NO. 280

[HB 415]

AN ACT REVISING WHO A JUDGE MAY ADMIT TO BAIL; LIMITING A JUDGE'S ABILITY TO PROVIDE BAIL TO A DEFENDANT ON A WARRANT FROM ANOTHER JURISDICTION; AND AMENDING SECTION 46-9-201, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-9-201, MCA, is amended to read:

"46-9-201. Who may admit to bail. A judge may admit to bail any defendant properly appearing before the judge in a bail proceeding *unless the defendant is on a warrant from another jurisdiction*. When bound over to any court or judge having jurisdiction of the offense charged, bail must be continued provided that the court or judge having jurisdiction may increase, reduce, or substitute bail *unless the defendant is on a warrant from another jurisdiction*. On appeal, a judge before whom the trial was had or a judge having the power to issue a writ of habeas corpus may admit the defendant to bail. For *the* purposes of this section, a defendant's appearance before a judge may be either by physical appearance before the court or by two-way electronic audio-video communication as provided in 46-9-206."

Approved May 1, 2025

CHAPTER NO. 281

[HB 423]

AN ACT REVISING ELECTION LAWS RELATED TO THE MAINTENANCE OF VOTER REGISTRATION LISTS; AMENDING SECTION 13-2-220, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-2-220, MCA, is amended to read:

“13-2-220. Maintenance of active and inactive voter registration lists for elections – rules by secretary of state. (1) The rules adopted by the secretary of state under 13-2-108 must include the following procedures, at least one of which an election administrator shall follow annually:

(a) compare the entire list of registered electors, including electors on the absentee ballot list, against the national change of address files and provide appropriate confirmation notice to those individuals whose addresses have apparently changed;

(b) mail a nonforwardable, first-class, “return if undeliverable--address correction requested” notice to all registered electors, including electors on the absentee ballot list, of each jurisdiction to confirm their addresses and provide the appropriate confirmation notice to those individuals who return the notices;

(c) mail a targeted mailing to electors, including electors on the absentee ballot list, who failed to vote in the preceding federal general election; *and to applicants who failed to provide required information on registration forms; and provisionally registered electors by:*

(i) sending the list of nonvoters a nonforwardable notice, followed by the appropriate forwardable confirmation notice to those electors who appear to have moved from their addresses of record;

(ii) comparing the list of nonvoters against the national change of address files, followed by the appropriate confirmation notices to those electors who appear to have moved from their addresses of record;

(iii) sending forwardable confirmation notices; or

(iv) making a door-to-door canvass.

(2) (a) Any notices returned as undeliverable to the election administrator or any notices to which the elector fails to respond after the election administrator uses the procedures provided in subsection (1) must be followed within 30 days by an appropriate confirmation notice that is a forwardable, first-class, postage-paid, self-addressed, return notice.

(b) If the elector fails to respond within 30 days of the final confirmation notice, after the 30th day, the election administrator shall move the elector to the inactive list and work with the secretary of state’s office and the motor vehicle division in the department of justice to verify the elector’s address.

(c) If the election administrator is not able to verify the elector’s address, the elector must be placed on the inactive list until they follow the procedure in 13-2-222 or 13-2-304, as applicable.

(3) A procedure used by an election administrator pursuant to this section must be completed at least 90 days before a primary or general election for federal office.

(4) An elector’s registration may be reactivated pursuant to 13-2-222 or may be canceled pursuant to 13-2-402.

(5) *The secretary of state shall adopt rules to maintain applicants, including removing provisionally registered electors.”*

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 282

[HB 428]

AN ACT GENERALLY REVISING WORKERS' COMPENSATION LAWS; REVISING THE DEFINITION OF EMPLOYER FOR WORKERS' COMPENSATION COVERAGE; REVISING THE FREQUENCY OF SUMMARY REPORTS SUBMITTED BY INSURERS; REVISING PROVISIONS FOR MEDICAL STATUS FORMS; AND AMENDING SECTIONS 39-71-117, 39-71-201, 39-71-306, AND 39-71-1036, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-71-117, MCA, is amended to read:

“39-71-117. Employer defined. (1) “Employer” means:

(a) the state and each county, city and county, city school district, and irrigation district; all other districts established by law; all public corporations and quasi-public corporations and public agencies; each person; each prime contractor; each firm, voluntary association, limited liability company, limited liability partnership, and private corporation, including any public service corporation and including an independent contractor who has a person in service under an appointment or contract of hire, expressed or implied, oral or written; and the legal representative of any deceased employer or the receiver or trustee of the deceased employer;

(b) any association, corporation, limited liability company, limited liability partnership, or organization that seeks permission and meets the requirements set by the department by rule for a group of individual employers to operate as self-insured under plan No. 1 of this chapter;

(c) any nonprofit association, limited liability company, limited liability partnership, or corporation or other entity funded in whole or in part by federal, state, or local government funds that places community service participants, as described in 39-71-118(1)(e), with nonprofit organizations or associations or federal, state, or local government entities;

(d) subject to subsection (5), a religious corporation, religious organization, or religious trust receiving remuneration from nonmembers for:

(i) manufacturing or construction activities conducted by its members on or off the property owned or leased by the religious corporation, religious organization, or religious trust; or

(ii) agricultural labor and services performed off the property owned or leased by the religious corporation, religious organization, or religious trust; and

(e) an approved and authorized fiduciary, agent, or other person acting as fiscal agent under section 3504 of the Internal Revenue Code, 26 U.S.C. 3504, and 26 CFR 31.3504-1.

(2) A temporary service contractor is the employer of a temporary worker for premium and loss experience purposes.

(3) Except as provided in chapter 8 of this title, an employer defined in subsection (1) who uses the services of a worker furnished by another person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, is presumed to be the employer for workers' compensation premium and loss experience purposes for work performed by the worker. The presumption may be rebutted by substantial credible evidence of the following that :

(a) the person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service

contractor, furnishing the services of a worker to another retains control over all aspects of the work performed by the worker, both at the inception of employment and during all phases of the work; ~~and~~

~~(b) the person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, furnishing the services of a worker to another has obtained workers' compensation insurance for the worker in Montana both at the inception of employment and during all phases of the work performed.~~

(4) An interstate or intrastate common or contract motor carrier that maintains a place of business in this state and uses an employee or worker in this state is considered the employer of that employee, is liable for workers' compensation premiums, and is subject to loss experience rating in this state unless:

(a) the worker in this state is certified as an independent contractor as provided in 39-71-417; or

(b) the person, association, contractor, firm, limited liability company, limited liability partnership, or corporation furnishing employees or workers in this state to a motor carrier has obtained Montana workers' compensation insurance on the employees or workers in Montana both at the inception of employment and during all phases of the work performed.

(5) The definition of "employer" in subsection (1)(d) is limited to implementing the administrative purposes of this chapter and may not be interpreted or construed to create an employment relationship in any other context.

(6) (a) A fiscal agent that qualifies under subsection (1)(e) and that is designated as a payor, using federal, state, or local government funds, under 26 CFR 31.3504-1 is considered to be the employer for the purposes of the Workers' Compensation Act of those workers for whom the fiscal agent is making payments.

(b) The client of the fiscal agent, despite exercising control over the hiring, scheduling, and direction of the work tasks performed by the worker, is not the employer of that worker for the purposes of the Workers' Compensation Act."

Section 2. Section 39-71-201, MCA, is amended to read:

"39-71-201. Workers' compensation administration fund. (1) A workers' compensation administration fund is established out of which are to be paid upon lawful appropriation all costs of administering the Workers' Compensation Act, with the exception of the certification of independent contractors provided for in Title 39, chapter 71, part 4, the subsequent injury fund provided for in 39-71-907, and the uninsured employers' fund provided for in 39-71-503. The department may use the workers' compensation administration fund to reimburse premiums for high-quality work-based learning programs, as provided in 39-71-319. The department shall collect and deposit in the state treasury to the credit of the workers' compensation administration fund:

(a) all fees and penalties provided in 39-71-107, 39-71-205, 39-71-223, 39-71-304, ~~39-71-306~~, 39-71-307, 39-71-315, 39-71-316, 39-71-401(6), 39-71-2204, 39-71-2205, and 39-71-2337; and

(b) all fees paid by an assessment on paid losses, plus administrative fines and interest provided by this section.

(2) For the purposes of this section, paid losses include the following benefits paid during the preceding calendar year for injuries covered by the Workers' Compensation Act without regard to the application of any deductible whether the employer or the insurer pays the losses:

(a) total compensation benefits paid; and

(b) except for medical benefits in excess of \$200,000 for each occurrence that are exempt from assessment, total medical benefits paid for medical treatment rendered to an injured worker, including hospital treatment and prescription drugs.

(3) Each plan No. 1 employer, plan No. 2 insurer subject to the provisions of this section, and plan No. 3, the state fund, shall file annually on March 1 in the form and containing the information required by the department a report of paid losses pursuant to subsection (2).

(4) Each employer enrolled under compensation plan No. 1, compensation plan No. 2, or compensation plan No. 3, the state fund, shall pay its proportionate share determined by the paid losses in the preceding calendar year of all costs of administering and regulating the Workers' Compensation Act, with the exception of the certification of independent contractors provided for in Title 39, chapter 71, part 4, the subsequent injury fund provided for in 39-71-907, and the uninsured employers' fund provided for in 39-71-503. In addition, compensation plan No. 3, the state fund, shall pay a proportionate share of these costs based upon paid losses for claims arising before July 1, 1990.

(5) (a) Each employer enrolled under compensation plan No. 1 shall pay an assessment to fund administrative and regulatory costs. The assessment may be up to 4% of the paid losses paid in the preceding calendar year by or on behalf of the plan No. 1 employer. Any entity, other than the department, that assumes the obligations of an employer enrolled under compensation plan No. 1 is considered to be the employer for the purposes of this section.

(b) An employer formerly enrolled under compensation plan No. 1 shall pay an assessment to fund administrative and regulatory costs. The assessment may be up to 4% of the paid losses paid in the preceding calendar year by or on behalf of the employer for claims arising out of the time when the employer was enrolled under compensation plan No. 1.

(c) By April 30 of each year, the department shall notify employers described in subsections (5)(a) and (5)(b) of the percentage of the assessment that comprises the compensation plan No. 1 proportionate share of administrative and regulatory costs. The assessment provided for by this subsection (5) must be paid by the employer in:

(i) one installment due on July 1; or

(ii) two equal installments due on July 1 and December 31 of each year.

(d) If an employer fails to timely pay to the department the assessment under this section, the department may impose on the employer an administrative fine of \$500 plus interest on the delinquent amount at the annual interest rate of 12%. Administrative fines and interest must be deposited in the workers' compensation administration fund and may be used to pay the reimbursement of premiums required under 39-71-319.

(6) (a) Compensation plan No. 3, the state fund, shall pay an assessment to fund administrative and regulatory costs attributable to claims arising before July 1, 1990. The assessment may be up to 4% of the paid losses paid in the preceding calendar year for claims arising before July 1, 1990. As required by 39-71-2352, the state fund may not pass along to insured employers the cost of the assessment for administrative and regulatory costs that is attributable to claims arising before July 1, 1990.

(b) The assessment must be paid in:

(i) one installment due on July 1; or

(ii) two equal installments due on July 1 and December 31 of each year.

(c) If the state fund fails to timely pay to the department the assessment under this section, the department may impose on the state fund an administrative

fine of \$500 plus interest on the delinquent amount at the annual interest rate of 12%. Administrative fines and interest must be deposited in the workers' compensation administration fund.

(7) (a) Each employer insured under compensation plan No. 2 or plan No. 3, the state fund, shall pay a premium surcharge to fund administrative and regulatory costs. The premium surcharge must be collected by each plan No. 2 insurer and by plan No. 3, the state fund, from each employer that it insures. The premium surcharge must be stated as a separate cost on an insured employer's policy or on a separate document submitted to the insured employer and must be identified as "workers' compensation regulatory assessment surcharge". The premium surcharge must be excluded from the definition of premiums for all purposes, including computation of insurance producers' commissions or premium taxes. However, an insurer may cancel a workers' compensation policy for nonpayment of the premium surcharge. When collected, assessments may not constitute an element of loss for the purpose of establishing rates for workers' compensation insurance but, for the purpose of collection, must be treated as a separate cost imposed upon insured employers.

(b) The amount to be funded by the premium surcharge may be up to 4% of the paid losses paid in the preceding calendar year by or on behalf of all plan No. 2 insurers and may be up to 4% of paid losses for claims arising on or after July 1, 1990, for plan No. 3, the state fund, plus or minus any adjustments as provided by subsection (7)(f). The amount to be funded must be divided by the total premium paid by all employers enrolled under compensation plan No. 2 or plan No. 3 during the preceding calendar year. A single premium surcharge rate, applicable to all employers enrolled in compensation plan No. 2 or plan No. 3, must be calculated annually by the department by not later than April 30. The resulting rate, expressed as a percentage, is levied against the premium paid by each employer enrolled under compensation plan No. 2 or plan No. 3 in the next fiscal year.

(c) On or before April 30 of each year, the department, in consultation with the advisory organization designated pursuant to 33-16-1023, shall notify plan No. 2 insurers and plan No. 3, the state fund, of the premium surcharge percentage to be effective for policies written or renewed annually on and after July 1 of that year.

(d) The premium surcharge must be paid whenever the employer pays a premium to the insurer. Each insurer shall collect the premium surcharge levied against every employer that it insures. Each insurer shall pay to the department all money collected as a premium surcharge within 20 days of the end of the calendar quarter in which the money was collected. If an insurer fails to timely pay to the department the premium surcharge collected under this section, the department may impose on the insurer an administrative fine of \$500 plus interest on the delinquent amount at the annual interest rate of 12%. Administrative fines and interest must be deposited in the workers' compensation administration fund and may be used to pay the reimbursement of premiums required under 39-71-319.

(e) If an employer fails to remit to an insurer the total amount due for the premium and premium surcharge, the amount received by the insurer must be applied to the premium surcharge first and the remaining amount applied to the premium due.

(f) The amount actually collected as a premium surcharge in a given year must be compared to the assessment on the paid losses paid in the preceding year. Any excess amount collected must be deducted from the amount to be collected as a premium surcharge in the following year. The amount collected that is less than the assessed amount must be added to the amount to be collected as a premium surcharge in the following year.

(8) By July 1, an insurer under compensation plan No. 2 that paid benefits in the preceding calendar year but that will not collect any premium for coverage in the following fiscal year shall pay an assessment of up to 4% of paid losses paid in the preceding calendar year. The department shall determine and notify the insurer by April 30 of each year of the amount that is due by July 1.

(9) An employer that makes a first-time application for permission to enroll under compensation plan No. 1 shall pay an assessment of \$500 within 15 days of being granted permission by the department to enroll under compensation plan No. 1.

(10) The department shall deposit all funds received pursuant to this section in the state treasury, as provided in this section.

(11) The administration fund must be debited with expenses incurred by the department in the general administration of the provisions of this chapter, including the salaries of its members, officers, and employees and the travel expenses of the members, officers, and employees, as provided for in 2-18-501 through 2-18-503, incurred while on the business of the department either within or without the state. Reimbursement of premiums required under 39-71-319 by the workers' compensation administration fund also is a debit on the fund.

(12) Disbursements from the administration fund must be made after being approved by the department upon claim for disbursement.

(13) The department may assess and collect the workers' compensation regulatory assessment surcharge from uninsured employers, as defined in 39-71-501, that fail to properly comply with the coverage requirements of the Workers' Compensation Act. Any amounts collected by the department pursuant to this subsection must be deposited in the workers' compensation administration fund."

Section 3. Section 39-71-306, MCA, is amended to read:

"39-71-306. Insurers to file summary reports of benefits paid for injuries and miscellaneous expenses and statements of medical expenditures. (1) ~~Each insurer shall, on or before the 15th day after each state government fiscal quarter ends, By January 15 of each year, each insurer shall~~ file with the department:

(a) summary reports of benefits for all compensation payments made during the previous ~~state fiscal quarter~~ *calendar year* to injured workers or their beneficiaries or dependents;

(b) statements showing the amounts expended during the previous ~~state fiscal quarter~~ *calendar year* for all medical services for injured workers; and

(c) statements showing all miscellaneous amounts, other than compensation and medical expenditures, paid during the previous ~~state fiscal quarter~~ *calendar year* to or on behalf of injured workers or their beneficiaries or dependents and not otherwise reported as an expenditure for the workers' compensation administration assessment provided for in 39-71-201.

(2) An insurer that fails to file the summary report required by this section or the annual paid losses report required in 39-71-201 within 5 days after the date on which either report is due may be assessed a penalty in an amount of not less than \$250 or more than \$1,000 to be deposited in the workers' compensation administration fund."

Section 4. Section 39-71-1036, MCA, is amended to read:

"39-71-1036. Medical status form. (1) The department shall create a medical status form to be provided to a health care provider providing treatment for a compensable injury or occupational disease.

(2) The form must contain, at a minimum, the following information:

(a) the worker's first and last names and claim number;

(b) the ~~diagnosed condition~~ *affected body part* that is a ~~direct result of directly related to~~ the compensable injury or occupational disease;

~~(c) the treatment plan for the worker;~~

~~(d) identification of any medications prescribed for treatment of the worker;~~

~~(e)(c)~~ the timeframe during which the treating physician recommends that the worker be completely off work;

~~(f)(d)~~ the date or anticipated date of the worker's release to modified duty;

~~(g)(e)~~ the date or anticipated date of the worker's release to full duty;

~~(h)(f)~~ any temporary work restrictions applicable to the worker;

~~(i)(g)~~ any permanent work restrictions applicable to the worker; *and*

~~(j) the anticipated date of maximum medical improvement; and~~

~~(k)(h)~~ the date of the worker's next appointment.

(3) An insurer may request additional information from the health care provider not contained in the department's form.

(4) The treating physician or a designee shall complete the form following every office visit with the worker."

Approved May 1, 2025

CHAPTER NO. 283

[HB 430]

AN ACT REPEALING THE PROCESS TO ESTABLISH COUNTY-OWNED SCALES; AND REPEALING SECTIONS 7-21-3101, 7-21-3102, 7-21-3103, 7-21-3104, 7-21-3105, 7-21-3106, 7-21-3107, AND 7-21-3108, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. The following sections of the Montana Code Annotated are repealed:

7-21-3101. Establishment of public scales.

7-21-3102. Ownership of public scales.

7-21-3103. Capacity and design of public scales.

7-21-3104. Appointment of public weigher.

7-21-3105. Bond of public weigher.

7-21-3106. Record of weighing.

7-21-3107. Fee for weighing.

7-21-3108. Misconduct by public weigher.

Approved May 1, 2025

CHAPTER NO. 284

[HB 435]

AN ACT REVISING LAWS RELATED TO PROFESSIONAL LICENSE DISCIPLINE; STANDARDIZING MISCONDUCT, SANCTIONS, AND REINSTATEMENT PROVISIONS FOR PROFESSIONAL LICENSES; PROVIDING STANDARDS FOR LICENSEES AND LICENSE APPLICANTS TO REPORT MISCONDUCT; PROVIDING STANDARDS FOR IMMUNITY FROM LIABILITY; REORGANIZING PROVISIONS FOR REPORTS OF LICENSEE MISCONDUCT TO THE BOARD OF MEDICAL EXAMINERS AND THE BOARD OF DENTISTRY; STANDARDIZING UNPROFESSIONAL CONDUCT PROVISIONS FOR ALL BOARDS AND PROGRAMS; ADDING STANDARD FORMS OF MISCONDUCT APPLICABLE TO ALL BOARDS

AND PROGRAMS; STANDARDIZING TERMS RELATED TO SANCTIONS FOR BOARDS AND PROGRAMS; REORGANIZING SANCTIONS FOR BOARDS AND PROGRAMS; CLARIFYING THE MAXIMUM AMOUNT OF TIME A BOARD OR PROGRAM MAY ORDER A PROBATIONARY LICENSE THROUGH A SANCTION; REPEALING UNNECESSARY PROVISIONS RELATED TO SANCTIONS FOR BOARDS AND PROGRAMS; STANDARDIZING REINSTATEMENT PROCESSES FOR LICENSING BOARDS AND PROGRAMS; CLARIFYING THAT THE PROCESS OF REINSTATEMENT ONLY APPLIES TO REVOKED LICENSES; REVISING RULEMAKING AUTHORITY; REPEALING DUPLICATIVE PROVISIONS; AMENDING SECTIONS 28-10-103, 37-1-312, 37-1-314, 37-1-316, 37-1-321, 37-1-406, 37-1-408, 37-1-410, 37-3-104, 37-3-404, 37-3-405, AND 37-4-313, MCA; AND REPEALING SECTIONS 37-1-105, 37-3-324, 37-3-401, 37-4-312, 37-4-314, 37-11-320, 37-12-323, AND 37-17-314, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Duty to report actions – immunity from liability – reports in compliance with rulemaking. (1) A license applicant shall immediately report to the department any action against the applicant that arises while the application is pending and relates to the applicant's qualifications or fitness to practice the profession or occupation.

(2) A licensee shall report to the department any action against the licensee that relates to the licensee's qualifications or fitness to practice the profession or occupation within 30 days of final disposition of the action.

(3) A licensee shall report in a timely manner to the department any information gained through personal knowledge that appears to show that another licensee or license applicant *under the same board or program* has engaged in unprofessional conduct under 37-1-316, 37-1-410, or board or program rule.

(4) There is no liability on the part of, and no cause of action may arise against, a licensee who in good faith provides information required in subsection (3) of this section or this title to the department.

Section 2. Report to board of mental or physical impairment.

(1) Notwithstanding any provision of state law dealing with confidentiality, each licensee, professional standards review organization, any professional association, and any other person may report to the licensee's respective board that a licensee is physically or mentally impaired by habitual intemperance or excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness or chronic physical illness.

(2) (a) For a licensee licensed under Title 37, chapter 3, information that relates to possible physical or mental impairment connected to habitual intemperance or excessive use of addictive drugs, alcohol, or any other drug or substance by a licensee or to other mental or chronic physical illness of a licensee may be reported to the appropriate personnel of the medical assistance program established by a board in lieu of reporting directly to the board.

(b) The program personnel referred to in subsection (2)(a) shall report to the board the identity of a licensee and all facts and documentation in their possession if:

(i) the licensee fails or refuses to:

(A) comply with a reasonable request that the licensee undergo a mental, physical, or chemical dependency evaluation or a combination of evaluations;

(B) undergo a reasonable course of recommended treatment, including reasonable aftercare; or

(C) satisfactorily complete a reasonable evaluation, a course of treatment, or aftercare; or

(ii) the licensee's condition creates a risk of harm to the licensee, a patient, or others.

(3) This section applies to professional standards review organizations only to the extent that the organizations are not prohibited from disclosing information under federal law.

Section 3. Section 28-10-103, MCA, is amended to read:

"28-10-103. Actual versus ostensible agency – limitation. (1) An agency is either actual or ostensible. An agency is actual when the agent is really employed by the principal. An agency is ostensible when the principal intentionally or by want of ordinary care causes a third person to believe another to be the principal's agent when that person is not really employed by the principal.

(2) Except as provided in subsection (3), for purposes of a malpractice claim, as defined in 27-6-103, liability may not be imposed on a health care provider, as defined in 27-6-103, for an act or omission by a person or entity alleged to have been an ostensible agent of the health care provider at the time that the act or omission occurred.

(3) (a) Subsection (2) is not applicable unless the health care provider has instituted a policy or practice requiring persons providing independent professional services to have insurance of a type and in the amount required by the rules and regulations of the medical staff, by the medical staff bylaws, or by other similar health care facility rules or regulations. The insurance provided for in this subsection must be in effect for the period of time during which a medical malpractice action must be brought as provided in 27-2-205.

(b) Failure of a health care provider providing independent professional services to comply with a policy or practice implementing subsection (3)(a) constitutes unprofessional conduct pursuant to 37-1-316~~(b)(1)(s)~~ and 37-2-304."

Section 4. Section 37-1-312, MCA, is amended to read:

"37-1-312. Sanctions – stay – costs – stipulations. (1) ~~Upon~~ *On* a decision that a licensee or license applicant has ~~violated this part or is unable to practice with reasonable skill and safety due to a physical or mental condition committed unprofessional conduct as provided in 37-1-316, or upon~~ *on* stipulation of the parties ~~as provided in subsection (3), the board may issue an order providing for one or any combination of the following sanctions that are necessary to protect the public:~~

(a) revocation of the license;

(b) suspension of the license for a fixed or indefinite term;

(c) *compliance with the conditions of probation for a period not to exceed 3 years;*

~~(c)(d)~~ *(d)* restriction or limitation of the practice;

~~(d)(e)~~ *(e)* *monitoring of the practice by a supervisor approved by the disciplining authority;*

(f) satisfactory completion of a specific program of remedial education or treatment;

~~(e)~~ *(e)* *monitoring of the practice by a supervisor approved by the disciplining authority;*

(g) *payment of a fine not to exceed \$5,000 for each violation. Fines must be deposited in the state general fund.*

(h) *denial of a license application or issuance of the license for a probationary period not to exceed 3 years;*

~~(f)(i)~~ *(i)* *censure or reprimand, either public or private;*

(g) compliance with conditions of probation for a designated period of time;
(h) payment of a fine not to exceed \$1,000 for each violation. Fines must be deposited in the state general fund.

(i) denial of a license application;

(j) refund of costs and fees billed to and collected from a consumer; or

(k) other appropriate action.

(2) A sanction may be totally or partly stayed by the board. ~~To determine which sanctions are appropriate, the board shall first consider the sanctions that are necessary to protect or compensate the public. Only after the determination has been made may the board consider and include in the order any requirements designed to rehabilitate the licensee or license applicant.~~

(3) The licensee or license applicant may enter into a stipulated agreement resolving potential or pending charges that includes one or more of the sanctions in this section. The stipulation is an informal disposition for the purposes of 2-4-603.

(4) ~~A licensee shall surrender a suspended or revoked license to the board within 24 hours after receiving notification of the suspension or revocation by mailing it or delivering it personally to the board."~~

Section 5. Section 37-1-314, MCA, is amended to read:

"37-1-314. Reinstatement. (1) ~~A~~ *Unless a board orders a permanent revocation,* a licensee whose license has been ~~suspended or revoked under this part~~ may petition the board for reinstatement after an interval set by the board in the order. The board may hold a hearing on the petition and may deny the petition or order reinstatement and impose *the* terms and conditions as provided in 37-1-312.

(2) The board may require the successful completion of an examination as a condition of reinstatement and may treat a licensee whose license has been ~~revoked or suspended~~ as a new applicant *for the purposes of establishing the requisite licensure qualifications of licensure.*"

Section 6. Section 37-1-316, MCA, is amended to read:

"37-1-316. Unprofessional conduct. (1) The following is unprofessional conduct for a licensee or license applicant governed by this part:

(a) *subject to Title 37, chapter 1, part 2, having a conviction, including a conviction following a plea of nolo contendere, of a crime relating to or committed during the course of the person's the practice of the profession or occupation or involving violence, use or sale of drugs, fraud, deceit, or theft, whether or not an appeal is pending;*

(b) *engaging in conduct listed as a sexual crime as provided in Title 45, chapter 5, part 5, regardless of whether the conduct occurred during or is related to the licensee's profession or occupation;*

(c) *engaging in conduct in the profession or occupation found to be a violation of the Montana Human Rights Act, Title 49, chapter 2;*

(b)(d) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

(e)(e) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(d)(f) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(e)(g) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(f)(h) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing

the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

~~(g)(i)~~ denial, suspension, revocation, probation, fine, *surrender during investigation or in lieu of discipline*, or other license restriction or discipline against a licensee by a ~~state, province, territory, or Indian tribal government or the federal government court, government agency, or private licensing or credentialing entity~~ if the action is not on appeal, *not* under judicial review, or has *not* been satisfied. *For the purposes of this section, a revoked license or certificate is not satisfied unless it is reinstated;*

~~(h)(j)~~ failure to comply with a term, condition, or limitation of a license by final order of a board;

~~(i)(k)~~ revealing confidential information obtained as the result of a professional relationship without the prior consent of the recipient of services, except as authorized or required by law;

~~(j)(l)~~ use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

~~(k)(m)~~ having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

~~(l)(n)~~ engaging in conduct in the course of one's practice while suffering from a contagious or infectious disease involving serious risk to public health or without taking adequate precautions, including but not limited to informed consent, protective gear, or cessation of practice;

~~(m)(o)~~ misappropriating property or funds from a client or workplace or failing to comply with a board rule regarding the accounting and distribution of a client's property or funds;

~~(n)(p)~~ interference with an *audit*, investigation, *inspection*, or disciplinary proceeding by *failure to respond or cooperate*, willful misrepresentation of facts, ~~by the~~ use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

~~(o)(q)~~ assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice by use of the licensee's license, *or practicing while the licensee's license is in an inactive status*;

~~(p)(r)~~ failing to report the institution of or final action on a malpractice action, including a final decision on appeal, against the licensee or of an action against the licensee by a:

(i) peer review committee;

(ii) professional association; or

(iii) local, state, federal, territorial, provincial, or Indian tribal government;

~~(q)(s)~~ failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice implementing 28-10-103(3)(a);

~~(r)(t)~~ conduct that does not meet the generally accepted standards of practice. A certified copy of a malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards.

~~(s)(u)~~ the sole use of any electronic means, including teleconferencing, to obtain the information required for the written certification and accompanying

statements used to apply for a registry identification card pursuant to Title 16, chapter 12, part 5; or

(v) violating a federal, state, or local law or rule relating to the conduct of the profession or occupation.

(2) Notwithstanding the provisions of this section or any other provision of this title governing unprofessional conduct of a licensee or a license applicant under this title, it is not unprofessional conduct for a licensee or a license applicant under this title to engage in the exercise of rights protected under the free exercise clause or the free speech clause of the Montana constitution or the United States constitution.”

Section 7. Section 37-1-321, MCA, is amended to read:

“37-1-321. Authority to administratively suspend license.

(1) A board, the department if authorized by the board, or the department for programs without a board may administratively suspend a license when:

(a) an audit of continuing education, certification, or other qualifications necessary for continued licensure demonstrates that the licensee is noncompliant with requirements established by the board or by the department for a program;

(b) the licensee fails to respond to a board or department audit as provided in subsection (1)(a);

(c) the department receives notice of insufficient funds in the account used by the licensee to pay for an administrative fee or a board fee or fine;

(d) the department has reasonable grounds to believe the licensee did not possess the qualifications for initial issuance of the license; or

(e) a licensee fails to comply with the terms of a final order imposed pursuant to 37-1-312 or 37-1-405.

(2) Upon identifying one or more of the deficiencies listed in subsection (1), the department shall inform the licensee in writing and provide the licensee 60 days from the date of the correspondence to cure the deficiency.

(3) If the licensee fails to cure the deficiency as provided in subsection (2), a board, the department if authorized by the board, or the department for programs without a board may administratively suspend the license without additional notice or opportunity for hearing.

(4) (a) The administrative suspension remains in effect until:

(i) a board, the department if authorized by the board, or the department for programs without a board determines the licensee has cured the deficiency; or

(ii) the license terminates as provided in 37-1-141.

(b) An administratively suspended license that is not renewed lapses, expires, or terminates as provided in 37-1-141.

(5) A licensee may not use a protected title or practice the licensed profession or occupation while the license is administratively suspended.

(6) To reinstate the administratively suspended license, a licensee must pay an administrative fee established by the department by rule and submit information necessary to cure the deficiencies as determined in the discretion of the department. *The board or program may require successful completion of an examination or other demonstration of the applicant's competency and may reinstate the license or impose terms and conditions as provided in 37-1-312.*

(7) Instead of an administrative suspension, the department may refer the deficiencies demonstrated in subsection (1) for disciplinary proceedings as provided in 37-1-309 or 37-1-403, as applicable. A board or the department may not proceed against a licensee for the same act or failure to act under both an administrative suspension as provided in this section and a disciplinary proceeding as provided in 37-1-309 or 37-1-403.”

Section 8. Section 37-1-406, MCA, is amended to read:

“37-1-406. Sanctions – stay – costs – stipulations. (1) ~~Upon~~ *On* a decision that a licensee or license applicant has ~~violated this part or is unable to practice with reasonable skill and safety due to a physical or mental condition committed unprofessional conduct as provided in 37-1-402 or administrative rule, or upon~~ stipulation of the parties, ~~as provided in subsection (4);~~ the department may ~~issue an order providing for~~ one or any combination of the following sanctions *that are necessary to protect the public*:

- (a) revocation of the license;
- (b) suspension of the license for a fixed or indefinite term;
- (c) *compliance with the conditions of probation for a period not to exceed 3 years;*
- ~~(c)~~(d) restriction or limitation of the practice;
- (e) *monitoring of the practice by a supervisor approved by the disciplining authority;*
- ~~(d)~~(f) satisfactory completion of a specific program of remedial education or treatment;
- (g) *payment of a fine not to exceed \$5,000 for each violation;*
- (h) *denial of a license application or issuance of the license for a probationary period not to exceed 3 years;*
- ~~(e)~~ monitoring of the practice by a supervisor approved by the disciplining authority;
- ~~(f)~~(i) censure or reprimand, ~~either public or private;~~
- ~~(g)~~ compliance with conditions of probation for a designated period of time;
- (h) payment of a fine not to exceed \$1,000 for each violation;
- (i) denial of a license application;
- (j) refund of costs and fees billed to and collected from a consumer; or
- (k) *other appropriate action.*

(2) Any fine collected by the department as a result of disciplinary actions must be deposited in the state general fund.

(3) A sanction may be totally or partly stayed by the department. ~~To determine which sanctions are appropriate, the department shall first consider the sanctions that are necessary to protect or compensate the public. Only after the determination has been made may the department consider and include in the order any requirements designed to rehabilitate the licensee or license applicant.~~

(4) The licensee or license applicant may enter into a stipulated agreement resolving potential or pending charges that includes one or more of the sanctions in this section. The stipulation is an informal disposition for the purposes of 2-4-603.

~~(5) A licensee shall surrender a suspended or revoked license to the department within 24 hours after receiving notification of the suspension or revocation by mailing the license or delivering it personally to the department.”~~

Section 9. Section 37-1-408, MCA, is amended to read:

“37-1-408. Reinstatement. A (1) *Unless the department orders a permanent revocation,* a licensee whose license has been ~~suspended or revoked under this part~~ may petition the department for reinstatement after an interval set by the department in the order. The department may hold a hearing on the petition and may deny the petition or order reinstatement and impose terms and conditions as provided in 37-1-312.

(2) The department may require the successful completion of an examination as a condition of reinstatement and may treat a licensee whose license has been revoked ~~or suspended~~ as a new applicant *for the purposes of establishing the requisite licensure qualifications of licensure.*”

Section 10. Section 37-1-410, MCA, is amended to read:

“37-1-410. Unprofessional conduct. (1) The following is unprofessional conduct for a licensee or license applicant in a profession or occupation governed by this part:

(a) ~~being convicted, subject to Title 37, chapter 1, part 2, having a conviction, including a conviction following a plea of nolo contendere and regardless of a pending appeal, of a crime relating to or committed during the course of practicing the person's~~ *the practice of the* profession or occupation or involving violence, the use or sale of drugs, fraud, deceit, or theft, *whether or not an appeal is pending;*

(b) *engaging in conduct listed as a sexual crime as provided in Title 45, chapter 5, part 5, regardless of whether the conduct occurred during or is related to the licensee's profession or occupation;*

(c) *engaging in conduct in the profession or occupation found to be a violation of the Montana Human Rights Act, Title 49, chapter 2;*

~~(b)(d)~~ permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

~~(c)(e)~~ committing fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

~~(d)(f)~~ signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

~~(e)(g)~~ making a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

~~(f)(h)~~ offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

~~(g)(i)~~ receiving a denial, suspension, revocation, probation, fine, *surrender during investigation in lieu of discipline, or other license restriction or discipline against a licensee by a state, province, territory, or Indian tribal government or the federal government by a court, government agency, or private licensing or credentialing entity* if the action is not on appeal *or, not under judicial review, or has been satisfied;. For the purposes of this section, a revoked license or certificate is not satisfied unless it is reinstated.*

~~(h)(j)~~ failing *failure* to comply with a term, condition, or limitation of a license by final order of the department;

~~(i)(k)~~ having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

~~(j)(l)~~ misappropriating property or funds from a client or workplace or failing to comply with the department's rule regarding the accounting and distribution of a client's property or funds;

~~(k)(m)~~ interfering *interference* with an *audit, investigation, inspection, or disciplinary proceeding by failure to respond or cooperate,* willful misrepresentation of facts, *failure to respond to department inquiries regarding a complaint against the licensee or license applicant, or the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action or use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;*

~~(n)~~ assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice the profession or occupation by use of the licensee's license, *or practicing while the licensee's license is in an inactive status;*

~~(m)(o) using use of alcohol, an illegal a habit-forming drug, or a dangerous drug controlled substance,~~ as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally in the performance of licensed professional duties; ~~or~~

(p) revealing confidential information obtained as the result of a professional relationship without the prior consent of the recipient of services, except as authorized or required by law;

(q) engaging in the practice while suffering from a contagious or infectious disease involving serious risk to public health or without taking adequate precautions, including but not limited to informed consent, protective gear, or cessation of practice;

(r) violating a federal, state, or local law or rule relating to the conduct of the profession or occupation; or

~~(n)(s) exhibiting~~ conduct that does not meet generally accepted standards of practice. A certified copy of a judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring ~~within during the scope and course of the practice and the course of the practice is considered~~ is conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards.

(2) Notwithstanding the provisions of this section or any other provision of this title governing unprofessional conduct of a licensee or a license applicant under this title, it is not unprofessional conduct for a licensee or a license applicant under this title to engage in the exercise of rights protected under the free exercise clause or the free speech clause of the Montana constitution or the United States constitution."

Section 11. Section 37-3-104, MCA, is amended to read:

"37-3-104. Medical assistants – guidelines. (1) The board shall adopt guidelines by administrative rule for:

(a) the performance of administrative and clinical tasks by a medical assistant that are allowed to be delegated by a physician, physician assistant, or podiatrist, including the administration of medications; and

(b) the level of physician, physician assistant, or podiatrist supervision required for a medical assistant when performing specified administrative and clinical tasks delegated by a physician, physician assistant, or podiatrist. However, the board shall adopt a rule requiring onsite supervision of a medical assistant by a physician, physician assistant, or podiatrist for invasive procedures, administration of medication, or allergy testing.

(2) The physician, physician assistant, or podiatrist who is supervising the medical assistant is responsible for:

(a) ensuring that the medical assistant is competent to perform clinical tasks and meets the requirements of the guidelines;

(b) ensuring that the performance of the clinical tasks by the medical assistant is in accordance with the board's guidelines and good medical practice; and

(c) ensuring minimum educational requirements for the medical assistant.

(3) The board may hold the supervising physician, physician assistant, or podiatrist responsible in accordance with ~~37-1-410~~ 37-1-316 or 37-3-323 for any acts of or omissions by the medical assistant acting in the ordinary course and scope of the assigned duties."

Section 12. Section 37-3-404, MCA, is amended to read:

“37-3-404. Immunity of person providing information. A person, organization, association, society, or health care facility which in good faith provides information to the state board of medical examiners as required by ~~37-3-401~~, 37-3-402; or 37-3-403 is not subject to suit for civil damages as a result thereof.”

Section 13. Section 37-3-405, MCA, is amended to read:

“37-3-405. Suspension of license or privilege for failure to report. The willful failure of any person, organization, association, society, or health care facility to comply with ~~37-3-401~~, 37-3-402; or 37-3-403 is grounds for suspension of any license or privilege granted by the state of Montana. Upon such failure, the agency granting the license or privilege may, in its discretion, suspend the license or privilege for a period not to exceed 1 month.”

Section 14. Section 37-4-313, MCA, is amended to read:

“37-4-313. Compelling licensee evaluation. The board has the right to compel an evaluation of a licensee, after notice to the licensee and a hearing if requested by the licensee, based on information reported pursuant to ~~37-4-312 [section 2]~~. The evaluation must be conducted at a facility authorized to conduct evaluations under a program referred to in 37-4-311.”

Section 15. Repealer. The following sections of the Montana Code Annotated are repealed:

- 37-1-105. Reporting disciplinary actions against licensees.
- 37-3-324. Reconsideration and review of actions of board.
- 37-3-401. Report of incompetence or unprofessional conduct.
- 37-4-312. Report of incompetence or unprofessional conduct.
- 37-4-314. Immunity of person providing information.
- 37-11-320. Duty to report violations -- immunity from liability.
- 37-12-323. Reconsideration of board action -- fee for restoration of license.
- 37-17-314. Immunity from liability.

Section 16. Directions to code commissioner. Sections 37-3-402, 37-3-403, 37-3-404, and 37-3-405 are intended to be renumbered and codified as a new part in Title 37, chapter 2, with [section 2].

Section 17. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 37, chapter 1, part 1, and the provisions of Title 37, chapter 1, part 1, apply to [section 1].

(2) [Section 2] is intended to be codified as a new part in Title 37, chapter 2, and the provisions of Title 37, chapter 2, apply to [section 2].

Approved May 1, 2025

CHAPTER NO. 285

[HB 438]

AN ACT ESTABLISHING A BOARD OF PHYSICAL, REHABILITATIVE, AND DEVELOPMENTAL HEALTH CARE PROFESSIONALS; GENERALLY REVISING PROFESSIONAL AND OCCUPATIONAL LICENSING PROVISIONS AND TRANSFERRING AUTHORITY FOR ATHLETIC TRAINERS, OCCUPATIONAL THERAPY PRACTITIONERS, PHYSICAL THERAPY EXAMINERS, AND SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS TO THE BOARD OF PHYSICAL, REHABILITATIVE, AND DEVELOPMENTAL HEALTH CARE PROFESSIONALS; PROVIDING DEFINITIONS; PROVIDING FOR STANDARD ORGANIZATIONAL DUTIES FOR THE BOARD; PROVIDING RULEMAKING AUTHORITY; AMENDING

SECTIONS 37-11-101, 37-15-102, 37-24-103, 37-36-101, AND 37-36-201, MCA; REPEALING SECTIONS 2-15-1739, 2-15-1748, 2-15-1749, 2-15-1771, 37-11-201, 37-11-203, 37-11-307, 37-15-201, 37-15-202, 37-15-203, 37-24-102, 37-24-201, 37-24-202, 37-24-203, 37-24-310, 37-36-102, AND 37-36-202, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Board of physical, rehabilitative, and developmental health care professionals. (1) In accordance with 37-1-123, there is a board of physical, rehabilitative, and developmental health care professionals.

(2) The board consists of 12 members:

- (a) two athletic trainers;
- (b) two occupational therapists;
- (c) four physical therapists;
- (d) two speech-language pathologists;
- (e) one audiologist; and
- (f) one public member.

(3) The board is allocated to the department as prescribed in 2-15-121.

Section 2. Purpose. The legislature declares it to be a policy of this state that in order to help ensure the availability of services and protect the health, safety, and welfare of the citizens of this state, it is a matter of public interest and concern that the health professions regulated by the board warrant and receive the confidence of the public and that only qualified persons be permitted to practice in each respective field from within or outside of the state and engage with clients located within the state.

Section 3. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Board" means the board of physical, rehabilitative, and developmental health care professionals provided for in [section 1].

(2) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

Section 4. Duties of board – rulemaking authority. (1) The board shall:

(a) administer, coordinate, and enforce the provisions of Title 37, chapters 11, 15, 24, and 36, and [sections 2 through 4];

(b) for each profession licensed under the chapters listed in subsection (1)(a), establish criteria for licensure;

(c) for each chapter listed under subsection (1)(a), adopt fees in accordance with 37-1-134 for the following:

- (i) applications for licensure;
- (ii) examinations;
- (iii) initial license issuance; and
- (iv) license renewal; and

(d) authorize the department to issue and renew licenses to qualified applicants.

(2) The board may adopt rules necessary to implement the provisions of chapters 11, 15, 24, and 36, and [sections 2 through 4].

Section 5. Section 37-11-101, MCA, is amended to read:

"37-11-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Board" means the board of ~~physical-therapy examiners~~ *physical, rehabilitative, and developmental health care professionals* provided for in 2-15-1748 [section 1].

(2) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(3) "Hearing" means the adjudicative proceeding concerning the issuance, denial, suspension, or revocation of a license, after which the appropriate action toward an applicant or licensee is to be determined by the board.

(4) "Physical therapist" or "physiotherapist" means a person who practices physical therapy.

(5) "Physical therapist assistant" or "assistant" means a person who:

(a) is a graduate of an accredited physical therapist assistant curriculum approved by the board;

(b) assists a physical therapist in the practice of physical therapy but who may not make evaluations or design treatment plans; and

(c) is supervised by a licensed physical therapist as described in 37-11-105.

(6) "Physical therapist assistant student" means a person who is enrolled in an accredited physical therapist assistant curriculum and who as part of the clinical and educational training is practicing under the supervision of a licensed physical therapist as described in 37-11-105.

(7) "Physical therapy" means the evaluation, treatment, and instruction of human beings, in person or through telehealth, to detect, assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction and pain, injury, and any bodily or mental conditions by the use of therapeutic exercise, prescribed topical medications, and rehabilitative procedures for the purpose of preventing, correcting, or alleviating a physical or mental disability.

(8) "Physical therapy aide" or "aide" means a person who aids in the practice of physical therapy, whose activities require on-the-job training, and who is supervised by a licensed physical therapist or a licensed physical therapist assistant as described in 37-11-105.

(9) "Physical therapy practitioner", "physical therapy specialist", "physiotherapy practitioner", or "manual therapists" are equivalent terms, and any derivation of the phrases or any letters implying the phrases are equivalent terms. Any reference to any one of the terms in this chapter includes the others but does not include certified corrective therapists or massage therapists.

(10) "Physical therapy student" or "physical therapy intern" means an individual who is enrolled in an accredited physical therapy curriculum, who, as part of the individual's professional, educational, and clinical training, is practicing in a physical therapy setting, and who is supervised by a licensed physical therapist as described in 37-11-105.

(11) "Telehealth" has the meaning provided in 37-2-305.

(12) "Topical medications" means medications applied locally to the skin and includes only medications listed in 37-11-106(2) for which a prescription is required under state or federal law."

Section 6. Section 37-15-102, MCA, is amended to read:

"37-15-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Audiologist" means a person who practices audiology and who meets the qualifications set forth in this chapter. A person represents to the public that the person is an audiologist by incorporating in any title or description of services or functions that the person directly or indirectly performs the words "audiologist", "audiology", "audiometrist", "audiometry", "audiological", "audiometrics", "hearing clinician", "hearing clinic", "hearing therapist", "hearing therapy", "hearing center", "hearing aid audiologist", or any similar title or description of services.

(2) "Audiology assistant" means any person meeting the minimum requirements established by the board of ~~speech-language pathologists~~

~~and audiologists~~ *physical, rehabilitative, and developmental health care professionals* who works directly under the supervision of a licensed audiologist.

(3) “Board” means the board of ~~speech-language pathologists and audiologists~~ *physical, rehabilitative, and developmental health care professionals* provided for in ~~2-15-1739~~ [section 1].

(4) “Department” means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(5) “Facilitator” means a trained individual who is physically present with the patient and facilitates telehealth at the direction of an audiologist or speech-language pathologist. A facilitator may be but is not limited to an audiology assistant or a speech-language pathology assistant.

(6) “Over-the-counter hearing aid” has the definition specified in 21 CFR 800.30 in effect on January 1, 2023.

(7) “Patient” means a consumer of services from an audiologist, a speech-language pathologist, a speech-language pathology assistant, or an audiology assistant, including a consumer of those services provided through telehealth.

(8) “Practice of audiology” means nonmedical diagnosis, assessment, and treatment services relating to auditory and vestibular disorders as provided by board rule and includes the ordering, selling, dispensing, and fitting of over-the-counter hearing aids and prescription hearing aids.

(9) “Practice of speech-language pathology” means nonmedical diagnosis, assessment, and treatment services relating to speech-language pathology as provided by board rule.

(10) “Prescription hearing aid” has the definition specified in 21 CFR 801.422 in effect on January 1, 2023. The term does not include an over-the-counter hearing aid.

(11) “Speech-language pathologist” means a person who practices speech-language pathology and who meets the qualifications set forth in this chapter. A person represents to the public that the person is a speech-language pathologist by incorporating in any title or description of services or functions that the person directly or indirectly performs the words “speech pathologist”, “speech pathology”, “speech correctionist”, “speech corrections”, “speech therapist”, “speech therapy”, “speech clinician”, “speech clinic”, “language pathologist”, “language pathology”, “voice therapist”, “voice therapy”, “voice pathologist”, “voice pathology”, “logopedist”, “logopedics”, “communicologist”, “communicology”, “aphasiologist”, “aphasiology”, “phoniatriest”, “language therapist”, “language clinician”, or any similar title or description of services or functions.

(12) “Speech-language pathology assistant” means a person meeting the minimum requirements established by the board who works directly under the supervision of a licensed speech-language pathologist.

(13) “Telehealth” has the meaning provided in 37-2-305.”

Section 7. Section 37-24-103, MCA, is amended to read:

“37-24-103. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) “Board” means the board of ~~occupational therapy practice~~ *physical, rehabilitative, and developmental health care professionals* established by ~~2-15-1749~~ provided for in [section 1].

(2) “Certified occupational therapy assistant” means a person licensed to assist in the practice of occupational therapy under this chapter, who works under the general supervision of an occupational therapist in accordance with the provisions of the national board for certification in occupational therapy, inc., and adopted by the board.

(3) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(4) "Occupational therapist" means a person licensed to practice occupational therapy under this chapter.

(5) "Occupational therapy" means the therapeutic use of purposeful goal-directed activities and interventions to achieve functional outcomes to maximize the independence and the maintenance of health of an individual who is limited by disease or disorders, impairments, activity limitations, or participation restrictions that interfere with the individual's ability to function independently in daily life roles. The practice encompasses evaluation, assessment, treatment, consultation, remediation, and restoration of performance abilities that are limited due to impairment in biological, physiological, psychological, or neurological processes. Occupational therapy services may be provided individually, in groups, or through social systems. Occupational therapy interventions include but are not limited to:

(a) evaluating, developing, improving, sustaining, or restoring skills in activities of daily living, work or productive activities, including instrumental activities of daily living, and play and leisure activities;

(b) developing perceptual-motor skills and sensory integrative functioning;

(c) developing play skills and leisure capacities and enhancing educational performance skills;

(d) designing, fabricating, or applying orthotic or prosthetic devices, applying and training in the use of assistive technology, and training in the use of orthotic and prosthetic devices;

(e) providing for the development of emotional, motivational, cognitive, psychosocial, or physical components of performance;

(f) providing assessment and evaluation, including the use of skilled observation or the administration and interpretation of standardized or nonstandardized tests and measurements to identify areas for occupational therapy services;

(g) adaptation of task, process, or the environment, as well as teaching of compensatory techniques, in order to enhance performance;

(h) developing feeding and swallowing skills;

(i) enhancing and assessing work performance and work readiness through occupational therapy intervention, including education and instruction, activities to increase and improve general work behavior and skill, job site evaluation, on-the-job training and evaluation, development of work-related activities, and supported employment placement;

(j) providing neuromuscular facilitation and inhibition, including the activation, facilitation, and inhibition of muscle action, both voluntary and involuntary, through the use of appropriate sensory stimulation, including vibration or brushing, to evoke a desired muscular response;

(k) application of physical agent modalities, as defined in this section, as an adjunct to or in preparation for engagement in purposeful goal-directed activity;

(l) promoting health and wellness;

(m) evaluating and providing intervention in collaboration with the client, family, caregiver, or others;

(n) educating the client, family, caregiver, or others in carrying out appropriate nonskilled interventions;

(o) consulting with groups, programs, organizations, or communities to provide population-based services; and

(p) use of prescribed topical medications.

(6) "Occupational therapy aide" means a person who assists in the practice of occupational therapy under the direct supervision of an occupational therapist or occupational therapy assistant and whose activities require an understanding of occupational therapy but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy.

(7) "Occupational therapy assistant" means a person who is licensed to assist in the practice of occupational therapy under this chapter and who works under the general supervision of an occupational therapist.

(8) "Physical agent modalities" means those modalities that produce a response in soft tissue through the use of light, water, temperature, sound, or electricity. Physical agent modalities are characterized as adjunctive methods used in conjunction with or in immediate preparation for patient involvement in purposeful activity. Superficial physical agent modalities include hot packs, cold packs, ice, fluidotherapy, paraffin, water, and other commercially available superficial heating and cooling devices. Use of superficial physical agent modalities is limited to the shoulder, arm, elbow, forearm, wrist, and hand and is subject to the provisions of 37-24-105. Use of sound and electrical physical agent modality devices is limited to the shoulder, arm, elbow, forearm, wrist, and hand and is subject to the provisions of 37-24-106.

(9) "Purposeful goal-directed activity" means an activity in which the individual is an active, voluntary participant and is directed toward a goal that the individual considers meaningful. Purposeful activities are used to evaluate, facilitate, restore, or maintain individuals' abilities to function within their daily occupations.

(10) "Topical medications" means medications applied locally to the skin and includes only medications listed in 37-24-108(2) for which a prescription is required under state or federal law."

Section 8. Section 37-36-101, MCA, is amended to read:

"37-36-101. Definitions. As used in this chapter, the following definitions apply:

(1) "Athlete" means a person who participates in an athletic activity that involves exercises, sports, or games requiring physical strength, agility, flexibility, range of motion, speed, or stamina and the exercises, sports, or games are of the type conducted in association with an educational institution or a professional, amateur, or recreational sports club or organization.

(2) "Athletic injury" means a physical injury received by an athlete.

(3) "Athletic trainer" means an individual who is licensed to practice athletic training.

(4) "Athletic training" means the practice of prevention, recognition, assessment, management, treatment, disposition, and reconditioning of athletic injuries. The term includes the following:

(a) the use of heat, light, sound, cold, electricity, exercise, reconditioning, or mechanical devices related to the care and conditioning of athletes; and

(b) the education and counseling of the public on matters related to athletic training.

(5) "Board" means the board of ~~athletic trainers~~ *physical, rehabilitative, and developmental health care professionals* provided for in ~~2-15-177~~ *[section 1]*.

(6) "Department" means the department of labor and industry provided for in 2-15-1701.

(7) "Licensee" means an individual licensed under this chapter."

Section 9. Section 37-36-201, MCA, is amended to read:

“37-36-201. Qualifications – temporary license – exemption from examination. (1) Applicants for licensure as an athletic trainer shall:

(a) satisfactorily complete an application and an examination prescribed by the department in accordance with rules adopted by the board;

~~(b) pay application, examination, and licensure fees established by the board;~~

~~(c)(b) provide documentation that the applicant has received at least a baccalaureate degree from a postsecondary institution that meets the academic standards for athletic trainers established by the national athletic trainers’ association board of certification; a degree in athletic training from a commission on accreditation of athletic training education accredited program, or its successor agency, or a comparable degree accepted by the board of certification for the athletic trainer, or its successor agency; and~~

~~(d)(c) provide the board with letters of recommendation from at least two clinical supervisors familiar with the applicant’s clinical training and other documentation by which the board may determine that an applicant has not had a criminal conviction or disciplinary action taken against the applicant by a board or a licensing agency in another state or territory of the United States that may have a direct bearing on the applicant’s ability to practice athletic training competently.~~

(2) (a) The board may issue a temporary license to an applicant who:

(i) meets the qualifications in subsections (1)(b) ~~through (1)(d) and (1)(c)~~ but has not yet met the examination requirement in subsection (1)(a); or

(ii) has a valid license from another state or certification as provided in subsection (3)(a) or (3)(b).

(b) A temporary license issued under this section is valid after the date of issuance for 90 days or until the board acts on the person’s license application, whichever is earlier.

(3) An applicant may be exempted from the examination requirement in subsection (1)(a) if the applicant:

(a) has a current, valid license to practice athletic training in another state and that state’s standards, as determined by the board, are at least equal to the standards for licensure in this state; or

(b) is certified as an athletic trainer by an organization recognized by the national commission for certifying agencies.”

Section 10. Repealer. The following sections of the Montana Code Annotated are repealed:

2-15-1739. Board of speech-language pathologists and audiologists.

2-15-1748. Board of physical therapy examiners.

2-15-1749. Board of occupational therapy practice.

2-15-1771. Board of athletic trainers.

37-11-201. General powers -- rulemaking.

37-11-203. Travel expense -- deposit of fees.

37-11-307. Applicants licensed in other states.

37-15-201. Meetings.

37-15-202. Powers and duties of board and department.

37-15-203. Compensation and expenses.

37-24-102. Purpose.

37-24-201. Organization -- general rulemaking power.

37-24-202. Powers and duties of board.

37-24-203. Compensation and expenses.

37-24-310. Fees.

37-36-102. Board duties -- rulemaking.

37-36-202. License -- revocation.

Section 11. Name change -- directions to code commissioner. Whenever a reference to the following boards appears in legislation enacted by the 2025 legislature, the code commissioner is directed to change it to a reference to the board of physical, rehabilitative, and developmental health care professionals:

- (1) the board of athletic trainers;
- (2) the board of occupational therapy practice;
- (3) the board of physical therapy examiners; and
- (4) the board of speech-language pathologists and audiologists.

Section 12. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 17, and the provisions of Title 2, chapter 15, part 17, apply to [section 1].

(2) [Sections 2 through 4] are intended to be codified as a new chapter in Title 37, and the provisions of Title 37 apply to [sections 2 through 4].

Section 13. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 14. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 15. Effective date. [This act] is effective January 1, 2026.

Approved May 1, 2025

CHAPTER NO. 286

[HB 442]

AN ACT REVISING REPORTING REQUIREMENTS FOR CERTAIN PROFESSIONAL OCCUPATIONS; ELIMINATING THE REQUIREMENT FOR THE MEDICAL LEGAL PANEL TO SEND A LICENSING BOARD THE OUTCOME OF A DECISION; ELIMINATING THE REQUIREMENT FOR THE CHIROPRACTIC LEGAL PANEL TO SEND THE LICENSING BOARD THE OUTCOME OF A DECISION; REMOVING THE REQUIREMENT FOR AN INSURER TO REPORT TO THE BOARD OF MEDICAL EXAMINERS FOR ALLEGED PROFESSIONAL NEGLIGENCE; AMENDING SECTIONS 27-6-605, 27-12-605, 37-3-404, AND 37-3-405, MCA; AND REPEALING SECTION 37-3-402, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 27-6-605, MCA, is amended to read:

“27-6-605. Decision to be filed and copies sent to parties; and attorneys; and licensing board. The decision shall be communicated in writing to the parties and attorneys concerned, and a copy thereof shall be retained in the permanent files of the panel. ~~A copy of the decision shall be sent to the health care provider’s professional licensing board.~~”

Section 2. Section 27-12-605, MCA, is amended to read:

“27-12-605. Decision to be filed and copies sent to parties; and attorneys; and licensing board. A copy of the decision must be:

- (1) given to the parties and their attorneys; and
- (2) retained in the permanent files of the panel.”

Section 3. Section 37-3-404, MCA, is amended to read:

“37-3-404. Immunity of person providing information. A person, organization, association, society, or health care facility ~~which~~ *that* in good

faith provides information to the state board of medical examiners as required by 37-3-401, ~~37-3-402~~, or 37-3-403 is not subject to suit for civil damages as a result thereof of providing information.”

Section 4. Section 37-3-405, MCA, is amended to read:

“37-3-405. Suspension of license or privilege for failure to report. The willful failure of any person, organization, association, society, or health care facility to comply with 37-3-401, ~~37-3-402~~, or 37-3-403 is grounds for suspension of any a license or privilege granted by the state of Montana. Upon such failure, the The agency granting the license or privilege may, in its discretion, suspend the license or privilege for a period not to exceed 1 month for a failure to comply.”

Section 5. Repealer. The following section of the Montana Code Annotated is repealed:

37-3-402. Insurer to report to board.

Approved May 1, 2025

CHAPTER NO. 287

[HB 443]

AN ACT REVISING LAWS RELATED TO COUNTY REGULATION OF TRANSIENT RETAIL MERCHANTS; PROVIDING AUTHORITY FOR COUNTY REGULATION OF TRANSIENT RETAIL MERCHANTS; REPEALING LAWS RELATED TO COUNTY LICENSING OF TRANSIENT RETAIL MERCHANTS; AND REPEALING SECTIONS 7-21-2404, 7-21-2405, 7-21-2406, 7-21-2407, 7-21-2408, 7-21-2409, 7-21-2410, AND 7-21-2411, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Power to regulate or license transient retail merchants. The board of county commissioners of any county or the governing body of an alternative form of government established pursuant to Title 7, chapter 3, has jurisdiction and power to regulate and license transient retail merchants, subject to any restrictions or limitations as are prescribed by law.

Section 2. Repealer. The following sections of the Montana Code Annotated are repealed:

7-21-2404. License required to do business as transient retail merchant -- fee.

7-21-2405. Nontransferability of license.

7-21-2406. Application for transient retail merchant license.

7-21-2407. Bond or security in lieu of license fee.

7-21-2408. Right of aggrieved purchaser.

7-21-2409. Processing of application -- issuance of license.

7-21-2410. License to be displayed in place of business.

7-21-2411. Effect of failure to comply with licensing requirements.

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 7, chapter 21, part 24, and the provisions of Title 7, chapter 21, part 24, apply to [section 1].

Approved May 1, 2025

CHAPTER NO. 288

[HB 447]

AN ACT ENACTING THE RESPIRATORY CARE INTERSTATE COMPACT; PROVIDING FOR CRIMINAL BACKGROUND CHECKS OF RESPIRATORY

CARE LICENSE APPLICANTS; PROVIDING RULEMAKING AUTHORITY;
AND PROVIDING A CONTINGENT EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Enactment of Respiratory Care Interstate Compact – provisions. The Respiratory Care Interstate Compact is enacted into law and entered into with all other jurisdictions joining in the compact in the form substantially as follows:

SECTION 1
TITLE AND PURPOSE

(1) The purpose of this compact is to facilitate the interstate practice of respiratory therapy with the goal of improving public access to respiratory therapy services by providing respiratory therapists licensed in a member state the ability to practice in other member states. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

(2) This compact is designed to achieve the following objectives:

(a) increase public access to respiratory therapy services by creating a responsible, streamlined pathway for licensees to practice in member states with the goal of improving outcomes for patients;

(b) enhance a state's ability to protect the public's health and safety;

(c) promote the cooperation of member states in regulating the practice of respiratory therapy within those member states;

(d) ease administrative burdens on states by encouraging the cooperation of member states in regulating multistate respiratory therapy practice;

(e) support relocating active military members and their spouses; and

(f) promote mobility and address workforce shortages.

SECTION 2
DEFINITIONS

As used in this compact, unless the context requires otherwise, the following definitions shall apply:

(1) "Active military member" means any person with a full-time duty status in the armed forces of the United States, including members of the national guard and reserve.

(2) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws that is imposed by any state authority with regulatory authority over respiratory therapists, such as license denial, censure, revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice, not including participation in an alternative program.

(3) "Alternative program" means a nondisciplinary monitoring or practice remediation process applicable to a respiratory therapist approved by any state authority with regulatory authority over respiratory therapists. This includes, but is not limited to, programs to which licensees with substance abuse or addiction issues are referred in lieu of adverse action.

(4) "Charter member states" means those member states who were the first seven states to enact the compact into the laws of their state.

(5) "Commission" or "respiratory care interstate compact commission" means the government instrumentality and body politic whose membership consists of all member states that have enacted the compact.

(6) "Commissioner" means the individual appointed by a member state to serve as the member of the commission for that member state.

(7) "Compact" means the respiratory care interstate compact.

(8) "Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as a respiratory

therapist in the remote state under the remote state's laws and rules. The practice of respiratory therapy occurs in the member state where the patient is located at the time of the patient encounter.

(9) "Criminal background check" means the submission by the member state of fingerprints or other biometric-based information on license applicants at the time of initial licensing for the purpose of obtaining that applicant's criminal history record information, as defined in 28 C.F.R. 20.3(d) or successor provision, from the federal bureau of investigation and the state's criminal history record repository, as defined in 28 C.F.R. 20.3(f) or successor provision.

(10) "Data system" means the commission's repository of information about licensees as further set forth in Section 8.

(11) "Domicile" means the jurisdiction that is the licensee's principal home for legal purposes.

(12) "Encumbered license" means a license that a state's respiratory therapy licensing authority has limited in any way.

(13) "Executive committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by the commission.

(14) "Home state" except as set forth in Section 5, means the member state that is the licensee's primary domicile.

(15) "Home state license" means an active license to practice respiratory therapy in a home state that is not an encumbered license.

(16) "Jurisprudence requirement" means an assessment of an individual's knowledge of the state laws and regulations governing the practice of respiratory therapy in such state.

(17) "Licensee" means an individual who currently holds an authorization from the state to practice as a respiratory therapist.

(18) "Member state" means a state that has enacted the compact and has been admitted to the commission in accordance with the provisions herein and commission rules.

(19) "Model compact" means the model for the respiratory care interstate compact on file with the Council of State Governments or other entity as designated by the commission.

(20) "Remote state" means a member state where a licensee is exercising or seeking to exercise the compact privilege.

(21) "Respiratory therapist" or "respiratory care practitioner" means an individual who holds a credential issued by the National Board for Respiratory Care or its successor and holds a license in a state to practice respiratory therapy. For the purposes of this compact, any other title or status adopted by a state to replace the term "respiratory therapist" or "respiratory care practitioner" shall be deemed synonymous with "respiratory therapist" and shall confer the same rights and responsibilities to the licensee under the provisions of this compact at the time of its enactment.

(22) "Respiratory therapy", "respiratory therapy practice", "respiratory care", "the practice of respiratory care", and "the practice of respiratory therapy" means the care and services provided by or under the direction and supervision of a respiratory therapist or respiratory care practitioner.

(23) "Respiratory therapy licensing authority" means the agency, board, or other body of a state that is responsible for licensing and regulation of respiratory therapists.

(24) "Rule" means a regulation promulgated by an entity that has the force and effect of law.

(25) "Scope of practice" means the procedures, actions, and processes a respiratory therapist licensed in a state or practicing under a compact privilege in a state is permitted to undertake in that state and the circumstances

under which the respiratory therapist is permitted to undertake those procedures, actions, and processes. Such procedures, actions, processes, and the circumstances under which they may be undertaken may be established through means, including, but not limited to, statute, regulations, case law, and other processes available to the state respiratory therapy licensing authority or other government agency.

(26) "Significant investigative information" means information, records, and documents received or generated by a state respiratory therapy licensing authority pursuant to an investigation for which a determination has been made that there is probable cause to believe that the licensee has violated a statute or regulation that is considered more than a minor infraction for which the state respiratory therapy licensing authority could pursue adverse action against the licensee.

(27) "State" means any state, commonwealth, district, or territory of the United States.

SECTION 3

STATE PARTICIPATION IN THIS COMPACT

(1) In order to participate in this compact and thereafter continue as a member state, a member state shall:

- (a) enact a compact that is not materially different from the model compact;
- (b) license respiratory therapists;
- (c) participate in the commission's data system;
- (d) have a mechanism in place for receiving and investigating complaints against licensees and compact privilege holders;

(e) notify the commission, in compliance with the terms of this compact and commission rules, of any adverse action against a licensee, a compact privilege holder, or a license applicant;

(f) notify the commission, in compliance with the terms of this compact and commission rules, of the existence of significant investigative information;

(g) comply with the rules of the commission;

(h) grant the compact privilege to a holder of an active home state license and otherwise meet the applicable requirements of Section 4 in a member state; and

(i) complete a criminal background check for each new licensee at the time of initial licensure. Where expressly authorized or permitted by federal law, whether such federal law is in effect prior to, at, or after the time of a member state's enactment of this compact, a member state's enactment of this compact shall hereby authorize the member state's respiratory therapy licensing authority to perform criminal background checks as defined herein. The absence of such a federal law as described in this subsection (1)(i) shall not prevent or preclude such authorization where it may be derived or granted through means other than the enactment of this compact.

(2) Nothing in this compact prohibits a member state from charging a fee for granting and renewing the compact privilege.

SECTION 4

COMPACT PRIVILEGE

(1) To exercise the compact privilege under the terms and provisions of the compact, the licensee shall:

- (a) hold and maintain an active home state license as a respiratory therapist;
- (b) hold and maintain an active credential from the national board for respiratory care or its successor that would qualify the licensee for licensure in the remote state in which the licensee is seeking the privilege;

(c) have not had any adverse action against a license within the previous 2 years;

(d) notify the commission that the licensee is seeking the compact privilege within a remote state or states;

(e) pay any applicable fees, including any state and commission fees and renewal fees, for the compact privilege;

(f) meet any jurisprudence requirements established by the remote state in which the licensee is seeking a compact privilege;

(g) report to the commission adverse action taken by any nonmember state within 30 days from the date the adverse action is taken;

(h) report to the commission, when applying for a compact privilege, the address of the licensee's domicile and thereafter promptly report to the commission any change in the address of the licensee's domicile within 30 days of the effective date of the change in address; and

(i) consent to accept service of process by mail at the licensee's domicile on record with the commission with respect to any action brought against the licensee by the commission or a member state, and consent to accept service of a subpoena by mail at the licensee's domicile on record with the commission with respect to any action brought or investigation conducted by the commission or a member state.

(2) The compact privilege is valid until the expiration date or revocation of the home state license unless terminated pursuant to adverse action. The licensee must comply with all of the requirements of subsection (1) to maintain the compact privilege in a remote state. If those requirements are met, no adverse actions are taken, and the licensee has paid any applicable compact privilege renewal fees, then the licensee will maintain the licensee's compact privilege.

(3) A licensee providing respiratory therapy in a remote state under the compact privilege shall function within the scope of practice authorized by the remote state for the type of respiratory therapist license the licensee holds. Such procedures, actions, processes, and the circumstances under which they may be undertaken may be established through means, including, but not limited to, statute, regulations, case law, and other processes available to the state respiratory therapy licensing authority or other government agency.

(4) If a licensee's compact privilege in a remote state is removed by the remote state, the individual shall lose or be ineligible for the compact privilege in that remote state until the compact privilege is no longer limited or restricted by that state.

(5) If a home state license is encumbered, the licensee shall lose the compact privilege in all remote states until the following occur:

(a) the home state license is no longer encumbered; and

(b) 2 years have elapsed from the date on which the license is no longer encumbered due to the adverse action.

(6) Once a licensee with a restricted or limited license meets the requirements of subsection (5), the licensee must also meet the requirements of subsection (1) to obtain a compact privilege in a remote state.

SECTION 5

ACTIVE MILITARY MEMBER OR THEIR SPOUSE

(1) An active military member or their spouse shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty.

(2) An active military member or their spouse shall not be required to pay to the commission for a compact privilege any fee that may otherwise be charged by the commission. If a remote state chooses to charge a fee for a compact

privilege, it may choose to charge a reduced fee or no fee to an active military member or their spouse for a compact privilege.

SECTION 6

ADVERSE ACTIONS

(1) A member state in which a licensee is licensed shall have authority to impose adverse action against the license issued by that member state.

(2) A member state may take adverse action based on significant investigative information of a remote state or the home state, so long as the member state follows its own procedures for imposing adverse action.

(3) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the member state's laws.

(4) A remote state shall have the authority to:

(a) take adverse actions as set forth herein against a licensee's compact privilege in that state;

(b) issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, and the production of evidence.

(i) Subpoenas may be issued by a respiratory therapy licensing authority in a member state for the attendance and testimony of witnesses and the production of evidence.

(ii) Subpoenas issued by a respiratory therapy licensing authority in a member state for the attendance and testimony of witnesses shall be enforced in the latter state by any court of competent jurisdiction in the latter state, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it.

(iii) Subpoenas issued by a respiratory therapy licensing authority in a member state for production of evidence from another member state shall be enforced in the latter state, according to the practice and procedure of that court applicable to subpoenas issued in the proceedings pending before it.

(iv) The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence are located.

(c) unless otherwise prohibited by state law, recover from the licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee;

(d) notwithstanding subsection (4)(b), a member state may not issue a subpoena to gather evidence of conduct in another member state that is lawful in such other member state for the purpose of taking adverse action against a licensee's compact privilege or application for a compact privilege in that member state; and

(e) nothing in this compact authorizes a member state to impose discipline against a respiratory therapist's compact privilege in that member state for the individual's otherwise lawful practice in another state.

(5) In joint investigations:

(a) in addition to the authority granted to a member state by its respective respiratory therapy practice act or other applicable state law, a member state may participate with other member states in joint investigations of licensees, provided, however, that a member state receiving such a request has no obligation to respond to any subpoena issued regarding an investigation of conduct or practice that was lawful in a member state at the time it was undertaken; and

(b) member states shall share any significant investigative information, litigation, or compliance materials in furtherance of any joint or individual

investigation initiated under the compact. In sharing such information between member state respiratory therapy licensing authorities, all information obtained shall be kept confidential, except as otherwise mutually agreed upon by the sharing and receiving member state or states.

(6) Nothing in this compact may permit a member state to take any adverse action against a licensee or holder of a compact privilege for conduct or practice that was legal in the member state at the time it was undertaken.

(7) Nothing in this compact may permit a member state to take disciplinary action against a licensee or holder of a compact privilege for conduct or practice that was legal in the member state at the time it was undertaken.

SECTION 7

ESTABLISHMENT OF THE RESPIRATORY CARE INTERSTATE COMPACT COMMISSION

(1) The compact member states hereby create and establish a joint government agency whose membership consists of all member states that have enacted the compact known as the respiratory care interstate compact commission. The commission is an instrumentality of the compact member states acting jointly and not an instrumentality of any one state. The commission shall come into existence on or after the effective date of the compact, as set forth in Section 11.

(2) Membership, voting, and meetings of the commission are as follows:

(a) Each member state shall have and be limited to one commissioner selected by that member state's respiratory therapy licensing authority.

(b) The commissioner shall be an administrator or the administrator's designated staff member of the member state's respiratory therapy licensing authority.

(c) The commission shall by rule or bylaw establish a term of office for commissioners and may by rule or bylaw establish term limits.

(d) The commission may recommend to a member state the removal or suspension any commissioner from office.

(e) A member state's respiratory therapy licensing authority shall fill any vacancy of its commissioner occurring on the commission within 60 days of the vacancy.

(f) Each commissioner shall be entitled to one vote on all matters before the commission requiring a vote by commissioners.

(g) A commissioner shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for commissioners to meet by telecommunication, videoconference, or other means of communication.

(h) The commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws.

(3) The commission shall have the following powers:

(a) establish and amend the fiscal year of the commission;

(b) establish and amend bylaws and policies, including but not limited to a code of conduct and conflict of interest;

(c) establish and amend rules, which shall be binding in all member states;

(d) maintain its financial records in accordance with the bylaws;

(e) meet and take such actions as are consistent with the provisions of this compact, the commission's rules, and the bylaws;

(f) initiate and conduct legal proceedings or actions in the name of the commission, provided that the standing of any respiratory therapy licensing authority to sue or be sued under applicable law shall not be affected;

(g) maintain and certify records and information provided to a member state as the authenticated business records of the commission, and designate an agent to do so on the commission's behalf;

- (h) purchase and maintain insurance and bonds;
 - (i) accept or contract for services of personnel, including but not limited to employees of a member state;
 - (j) conduct an annual financial review;
 - (k) hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
 - (l) assess and collect fees;
 - (m) accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same, provided that at all times:
 - (i) the commission shall avoid any appearance of impropriety; and
 - (ii) the commission shall avoid any appearance of conflict of interest;
 - (n) lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;
 - (o) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;
 - (p) establish a budget and make expenditures;
 - (q) borrow money in a fiscally responsible manner;
 - (r) appoint committees, including standing committees, composed of commissioners, state regulators, state legislators or their representatives, and consumer representatives and such other interested persons as may be designated in this compact and the bylaws;
 - (s) provide and receive information from, and cooperate with, law enforcement agencies;
 - (t) establish and elect an executive committee, including a chairperson, vice-chairperson, secretary, treasurer, and such other offices as the commission shall establish by rule or bylaw;
 - (u) enter into contracts or arrangements for the management of the affairs of the commission;
 - (v) determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the compact; and
 - (w) perform such other functions as may be necessary or appropriate to achieve the purposes of this compact.
- (4) The executive committee is organized as follows:
- (a) The executive committee shall have the power to act on behalf of the commission according to the terms of this compact. The powers, duties, and responsibilities of the executive committee shall include:
 - (i) overseeing the day-to-day activities of the administration of the compact, including enforcement and compliance with the provisions of the compact, its rules and bylaws, and other such duties as deemed necessary;
 - (ii) recommending to the commission changes to the rules or bylaws, changes to this compact legislation, fees charged to compact member states, fees charged to licensees, and other fees;
 - (iii) ensuring compact administration services are appropriately provided, including by contract;
 - (iv) preparing and recommending the budget;
 - (v) maintaining financial records on behalf of the commission;
 - (vi) monitoring compact compliance of member states and providing compliance reports to the commission;
 - (vii) establishing additional committees as necessary;

(viii) exercising the powers and duties of the commission during the interim between commission meetings, except for adopting or amending rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the commission by rule or bylaw; and

(ix) performing other duties as provided in the rules or bylaws of the commission.

(b) The executive committee shall be composed of up to nine members, as further set forth in the bylaws of the commission:

(i) seven voting members who are elected by the commission from the current membership of the commission; and

(ii) two ex-officio, nonvoting members.

(c) The commission may remove any member of the executive committee as provided in the commission's bylaws.

(d) The executive committee shall meet at least annually.

(i) Executive committee meetings shall be open to the public, except that the executive committee may meet in a closed, nonpublic meeting as provided in subsection (6)(d).

(ii) The executive committee shall give advance notice of its meetings, posted on its website and as determined to provide notice to persons with an interest in the business of the commission.

(iii) The executive committee may hold a special meeting in accordance with subsection (6)(b).

(5) The commission shall adopt and provide to the member states an annual report.

(6) Meetings of the commission must be conducted as follows:

(a) All meetings of the commission that are not closed pursuant to subsection (6)(d) shall be open to the public. Notice of public meetings shall be posted on the commission's website at least 30 days prior to the public meeting.

(b) Notwithstanding subsection (6)(a), the commission may convene an emergency public meeting by providing at least 24 hours' prior notice on the commission's website, and any other means as provided in the commission's rules, for any of the reasons it may dispense with notice of proposed rulemaking under Section 9(7). The commission's legal counsel shall certify that one of the reasons justifying an emergency public meeting has been met.

(c) Notice of all commission meetings shall provide the time, date, and location of the meeting, and if the meeting is to be held or accessible via telecommunication, videoconference, or other electronic means, the notice shall include the mechanism for access to the meeting.

(d) The commission or the executive committee may convene in a closed, nonpublic meeting for the commission or executive committee to receive or solicit legal advice or to discuss:

(i) noncompliance of a member state with its obligations under the compact;

(ii) the employment, compensation, discipline or other matters, practices or procedures related to specific employees;

(iii) current or threatened discipline of a licensee or compact privilege holder by the commission or by a member state's respiratory therapy licensing authority;

(iv) current, threatened, or reasonably anticipated litigation;

(v) negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(vi) accusing any person of a crime or formally censuring any person;

(vii) trade secrets or commercial or financial information that is privileged or confidential;

(viii) information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(ix) investigative records compiled for law enforcement purposes;

(x) information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact;

(xi) legal advice;

(xii) matters specifically exempted from disclosure by federal or member state law; or

(xiii) other matters as promulgated by the commission by rule.

(e) If a meeting or a portion of a meeting is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

(f) The commission shall keep minutes in accordance with commission rules and bylaws. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

(7) Financing of the commission is as follows:

(a) The commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The commission may accept any and all appropriate revenue sources as provided herein.

(c) The commission may levy on and collect an annual assessment from each member state and impose fees on licensees of member states to whom it grants a compact privilege to cover the cost of the operations and activities of the commission and its staff. The aggregate annual assessment amount for member states, if any, shall be allocated based upon a formula that the commission shall promulgate by rule.

(d) The commission shall not incur obligations of any kind prior to securing the funds or a loan adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(e) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the financial review and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the commission.

(8) Qualified immunity, defense, and indemnification are as follows:

(a) Nothing herein shall be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.

(b) The member states, commissioners, officers, executive directors, employees, and agents of the commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that nothing in this subsection (8)(b) shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The

procurement of insurance of any type by the commission shall not in any way compromise or limit the immunity granted hereunder.

(c) The commission shall defend any commissioner, officer, executive director, employee, and agent of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or as determined by the commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining their own counsel at their own expense, and provided further that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

(d) The commission shall indemnify and hold harmless any commissioner, member, officer, executive director, employee, and agent of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

(e) Nothing in this compact shall be interpreted to waive or otherwise abrogate a member state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, the Clayton Act, or any other state or federal antitrust or anticompetitive law or regulation.

(f) Nothing in this compact shall be construed to be a waiver of sovereign immunity by the member states or by the commission.

SECTION 8 DATA SYSTEM

(1) The commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, adverse action, and the presence of significant investigative information.

(2) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system as required by the rules of the commission, including but not limited to:

- (a) identifying information;
- (b) licensure data;
- (c) adverse actions against a licensee, license applicant, or compact privilege holder and information related thereto;
- (d) nonconfidential information related to alternative program participation, the beginning and ending dates of such participation, and other information related to such participation not made confidential under member state law;
- (e) any denial of application for licensure and the reason or reasons for such denial;
- (f) the presence of current significant investigative information; and
- (g) other information that may facilitate the administration of this compact or the protection of the public, as determined by the rules of the commission.

(3) No member state shall submit any information that constitutes criminal history record information, as defined by applicable federal law, to the data system established hereunder.

(4) The records and information provided to a member state pursuant to this compact or through the data system, when certified by the commission

or an agent thereof, shall constitute the authenticated business records of the commission, and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial or administrative proceedings in a member state.

(5) Significant investigative information pertaining to a licensee in any member state will only be available to other member states.

(6) It is the responsibility of the member states to report any adverse action against a licensee and to monitor the database to determine whether adverse action has been taken against a licensee. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

(7) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(8) Any information submitted to the data system that is subsequently expunged pursuant to federal law or the laws of the member state contributing the information shall be removed from the data system.

SECTION 9 RULEMAKING

(1) The commission shall promulgate reasonable rules in order to effectively and efficiently implement and administer the purposes and provisions of the compact. A rule shall be invalid and have no force or effect only if a court of competent jurisdiction holds that the rule is invalid because the commission exercised its rulemaking authority in a manner that is beyond the scope and purposes of the compact, or the powers granted hereunder, or based upon another applicable standard of review.

(2) For purposes of the compact, the rules of the commission shall have the force of law in each member state.

(3) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules shall become binding as of the date specified in each rule.

(4) If a majority of the legislatures of the member states rejects a rule or portion of a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within 4 years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

(5) Rules shall be adopted at a regular or special meeting of the commission.

(6) Prior to adoption of a proposed rule, the commission shall hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions, and arguments.

(7) Prior to adoption of a proposed rule by the commission, and at least 30 days in advance of the meeting at which the commission will hold a public hearing on the proposed rule, the commission shall provide a notice of proposed rulemaking:

(a) on the website of the commission or other publicly accessible platform;
(b) to persons who have requested notice of the commission's notices of proposed rulemaking; and

(c) in such other way or ways as the commission may by rule specify.

(8) The notice of proposed rulemaking shall include:

(a) the time, date, and location of the public hearing at which the commission will hear public comments on the proposed rule and, if different, the time, date, and location of the meeting in which the commission will consider and vote on the proposed rule;

(b) if the hearing is held via telecommunication, videoconference, or other electronic means, the commission shall include the mechanism for access to the hearing in the notice of proposed rulemaking;

(c) the text of the proposed rule and the reason therefor;

(d) a request for comments on the proposed rule from any interested person;
and

(e) the manner in which interested persons may submit written comments.

(9) All hearings will be recorded. A copy of the recording and all written comments and documents received by the commission in response to the proposed rule shall be available to the public.

(10) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(11) The commission shall, by majority vote of all commissioners, take final action on the proposed rule based on the rulemaking record and the full text of the rule.

(a) The commission may adopt changes to the proposed rule provided the changes are consistent with the original purpose of the proposed rule.

(b) The commission shall provide an explanation of the reasons for substantive changes made to the proposed rule as well as reasons for substantive changes not made that were recommended by commenters.

(c) The commission shall determine a reasonable effective date for the rule. Except for an emergency as provided in Section 9(12), the effective date of the rule shall be no sooner than 30 days after issuing the notice that it adopted or amended the rule.

(12) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with 24 hours' notice, and with opportunity to comment, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(a) meet an imminent threat to public health, safety, or welfare;

(b) prevent a loss of commission or member state funds;

(c) meet a deadline for the promulgation of a rule that is established by federal law or rule; or

(d) protect public health and safety.

(13) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

(14) No member state's rulemaking process or procedural requirements shall apply to the commission. The commission shall have no authority over any member state's rulemaking process or procedural requirements that do not pertain to the compact.

(15) Nothing in this compact, nor any rule or regulation of the commission, shall be construed to limit, restrict, or in any way reduce the ability of a member state to enact and enforce laws, regulations, or other rules related to the practice of respiratory therapy in that state, where those laws, regulations, or other rules are not inconsistent with the provisions of this compact.

SECTION 10

OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

(1) Oversight is as follows:

(a) The executive and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to implement the compact.

(b) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct or any such similar matter.

(c) The commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the commission service of process shall render a judgment or order void as to the commission, this compact, or promulgated rules.

(2) Default, technical assistance, and termination are as follows:

(a) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall provide written notice to the defaulting state. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the commission may take, and shall offer training and specific technical assistance regarding the default.

(b) The commission shall provide a copy of the notice of default to the other member states.

(3) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the commissioners of the member states, and all rights, privileges and benefits conferred on that state by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(4) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, the defaulting state's respiratory therapy licensing authority and each of the member states' respiratory therapy licensing authorities.

(5) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination, if necessary.

(6) Upon the termination of a state's membership from this compact, that state shall immediately provide notice to all licensees and compact privilege holders (of which the commission has a record) within that state of such termination. The terminated state shall continue to recognize all licenses granted pursuant to this compact for a minimum of 180 days after the date of said notice of termination.

(7) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(8) The defaulting state may appeal the action of the commission by petitioning the U.S. district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

(9) Dispute resolution is as follows:

(a) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.

(b) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

(10) Enforcement is as follows:

(a) By majority vote, as may be further provided by rule, the commission may initiate legal action against a member state in default in the U.S. district court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. A member state by enactment of this compact consents to venue and jurisdiction in such court for the purposes set forth herein. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or the defaulting member state's law.

(b) A member state may initiate legal action against the commission in the U.S. district court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

(c) No person other than a member state shall enforce this compact against the commission.

SECTION 11

EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

(1) The compact shall come into effect on the date on which the compact statute is enacted into law in the seventh member state ("effective date").

(a) On or after the effective date of the compact, the commission shall convene and review the enactment of each of the first seven member states ("charter member states") to determine if the statute enacted by each such charter member state is materially different than the model compact.

(i) A charter member state whose enactment is found to be materially different from the model compact shall be entitled to the default process set forth in Section 10.

(ii) If any member state is later found to be in default, or is terminated or withdraws from the compact, the commission shall remain in existence and the compact shall remain in effect even if the number of member states should be less than seven.

(b) Member states enacting the compact subsequent to the seven initial charter member states shall be subject to the process set forth herein and commission rule to determine if their enactments are materially different from the model compact and whether they qualify for participation in the compact.

(c) All actions taken for the benefit of the commission or in furtherance of the purposes of the administration of the compact prior to the effective date of the compact or the commission coming into existence shall be considered to be

actions of the commission unless specifically repudiated by the commission. The commission shall own and have all rights to any intellectual property developed on behalf or in furtherance of the commission by individuals or entities involved in organizing or establishing the commission, as may be further set forth in rules of the commission.

(d) Any state that joins the compact subsequent to the commission's initial adoption of the rules and bylaws shall be subject to the rules and bylaws as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the date the compact becomes law in that state.

(2) Any member state may withdraw from this compact by enacting a statute repealing the same.

(a) A member state's withdrawal shall not take effect until 180 days after enactment of the repealing statute.

(b) Withdrawal shall not affect the continuing requirement of the withdrawing state's respiratory therapy licensing authority to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

(c) Upon the enactment of a statute withdrawing from this compact, a state shall immediately provide notice of such withdrawal to all licensees and compact privilege holders (of which the commission has a record) within that state. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing state shall continue to recognize all licenses granted pursuant to this compact for a minimum of 180 days after the date of such notice of withdrawal.

(3) Nothing contained in this compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

(4) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 12

CONSTRUCTION AND SEVERABILITY

(1) This compact and the commission's rulemaking authority shall be liberally construed so as to effectuate the purposes and the implementation and administration of the compact. Provisions of the compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the commission's rulemaking authority solely for those purposes.

(2) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any member state, a state seeking participation in the compact, or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby.

(3) Notwithstanding subsection (2) of this section, the commission may deny a state's participation in the compact or, in accordance with the requirements of Section 10, terminate a member state's participation in the compact if it determines that a constitutional requirement of a member state is a material departure from the compact. Otherwise, if this compact shall be held to be contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

SECTION 13

CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS

(1) Nothing herein shall prevent or inhibit the enforcement of any other law of a member state that is not inconsistent with the compact.

(2) Any laws, statutes, regulations, or other legal requirements in a member state in conflict with the compact are superseded to the extent of the conflict, including any subsequently enacted state laws.

(3) All permissible agreements between the commission and the member states are binding in accordance with their terms.

(4) Other than as expressly set forth herein, nothing in this compact will impair initial licensure.

Section 2. Criminal background check. (1) The board shall require each applicant for licensure as a respiratory care practitioner to submit a full set of the applicant's fingerprints to the board for the purpose of obtaining a state and federal criminal history background check.

(2) Each license applicant is responsible for paying all fees charged in relation to obtaining the state and federal criminal history background check.

(3) The board may require a licensee who is renewing a license to submit a full set of the licensee's fingerprints to the board for the purpose of obtaining a state and federal criminal history background check.

(4) The Montana department of justice may share the fingerprint data obtained under this section with the federal bureau of investigation.

Section 3. Codification instruction. (1) [Section 1] is intended to be codified as a new part in Title 37, chapter 28, and the provisions of Title 37, chapter 28, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 37, chapter 28, part 2, and the provisions of Title 37, chapter 28, part 2, apply to [section 2].

Section 4. Contingent effective date. [This act] is effective on the date that the compact has been legislatively enacted into law by the seventh member state. The department of labor and industry shall notify the code commissioner within 15 days of the occurrence of the contingency.

Approved May 1, 2025

CHAPTER NO. 289

[HB 448]

AN ACT ESTABLISHING THE JIM LOUD THUNDER GOPHER MEMORIAL HIGHWAY IN CASCADE COUNTY; DIRECTING THE DEPARTMENT OF TRANSPORTATION TO INSTALL SIGNS AND TO INCLUDE THE MEMORIAL HIGHWAY ON THE NEXT PUBLICATION OF THE STATE MAP; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Jim Loud Thunder Gopher was born in 1885 in Malta, Montana, a full-blood Ojibwe of the Crane Clan; and

WHEREAS, after a period of searching and hardship following the Spanish Flu pandemic, Loud Thunder Gopher moved to Hill 57 outside of Great Falls; and

WHEREAS, the Little Shell Tribe had historic homesites on Hill 57 just below Mount Royal. The area is within the tribe's congressionally designated service area pursuant to the Little Shell Restoration Act of 2019; and

WHEREAS, Loud Thunder Gopher was a spiritual practitioner of Ojibwe traditional teachings, and he organized ceremonial practices, including the

Sun Dance, Midewiwin, shaking tent, sweat lodge, Round Dance, and Give Away ceremonies. As a community organizer, Loud Thunder Gopher promoted voter registration and agricultural employment; and

WHEREAS, in 1942 Loud Thunder Gopher was selected as a member of the Landless Indians to travel to Washington, D.C., with Raymond Gray and Packy Myers to advocate for a land base; and

WHEREAS, Loud Thunder Gopher died in 1946 in Great Falls and is buried in Highland Cemetery. His descendants are enrolled in many of the tribes residing in Montana.

Be it enacted by the Legislature of the State of Montana:

Section 1. Jim Loud Thunder Gopher memorial highway.

(1) There is established the Jim Loud Thunder Gopher memorial highway on the existing northwest bypass and Vaughn road in Great Falls from 14th street northwest to 27th street northwest.

(2) The department shall design and install appropriate signs marking the location of the Jim Loud Thunder Gopher memorial highway.

(3) Maps that identify roadways in the state must be updated to include the location of the Jim Loud Thunder Gopher memorial highway when the department updates and publishes the state maps.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 60, chapter 1, part 2, and the provisions of Title 60, chapter 1, part 2, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 290

[HB 449]

AN ACT ELIMINATING STATUTORY REFERENCE TO THE ADULT BASIC EDUCATION FUND AND ITS DISTRIBUTION; REPEALING SECTION 20-7-712, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. The following section of the Montana Code Annotated is repealed:

20-7-712. Adult basic education fund and its distribution.

Section 2. Effective date. [This act] is effective July 1, 2025.

Approved May 1, 2025

CHAPTER NO. 291

[HB 450]

AN ACT REVISING LAWS RELATED TO CLASS D-5 LICENSES FOR TRAINING BIRD HUNTING DOGS; REQUIRING AN APPLICANT FOR A CLASS D-5 LICENSE TO REPORT THE NUMBER OF DOGS THAT WILL BE TRAINED; ALLOWING THE FISH AND WILDLIFE COMMISSION TO REGULATE THE NUMBER OF CLASS D-5 LICENSES; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 87-3-602 AND 87-3-604, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-3-602, MCA, is amended to read:

“87-3-602. Training bird hunting dogs – Class D-5 license.

(1) (a) Training of bird hunting dogs using game birds not raised in captivity is allowed with the purchase of a Class D-5 license and pursuant to the requirements of this part.

(b) A Class D-5 license is required for training bird dogs using game birds not raised in captivity. A person who is at least 18 years of age or older or who will turn 18 years of age during the season for which the license is issued may purchase a license for a fee of \$5 for residents and \$10 for nonresidents. The department may issue a free resident or nonresident Class D-5 license to a youth who is 12 to 18 years of age.

(c) *An applicant for a Class D-5 license shall report on the application the number of dogs to be trained. The number of dogs must be printed on the license issued by the department.*

(2) A Class D-5 license is not required for a person training bird hunting dogs with a method that kills game birds raised in captivity. A person shall tag or mark the captive game bird prior to release. Captive game birds must be obtained from a game bird farm licensed under 87-4-903 or from a source of game birds approved by the department.

(3) A person who takes an untagged or unmarked game bird while training a bird hunting dog outside of the established season for that species or who is not licensed to take that species shall immediately report the taking to a representative of the department.”

Section 2. Section 87-3-604, MCA, is amended to read:

“87-3-604. Rulemaking authority. The commission ~~shall~~ *may* adopt rules to implement the provisions of this part, including *but not limited to* limiting the number of Class D-5 licenses *issued to nonresidents and limiting the number of dogs that may be trained under a Class D-5 license.*”

Approved May 1, 2025

CHAPTER NO. 292

[HB 454]

AN ACT REVISING THE FREQUENCY OF PATIENT VISITS REQUIRED BY A LICENSED PHYSICAL THERAPIST WHEN SUPERVISING A PHYSICAL THERAPY ASSISTANT; AMENDING SECTION 37-11-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-11-105, MCA, is amended to read:

“37-11-105. Supervision of physical therapist assistant, physical therapy aide, physical therapy student, or physical therapist assistant student. (1) A physical therapist assistant shall practice under the supervision of a licensed physical therapist who is responsible for and participates in a patient’s care. This supervision requires the licensed physical therapist to make an onsite visit or a visit by means of telehealth to the client at least once for every ~~six eight~~ visits made by the assistant or once every ~~2-weeks~~ *30 days*, whichever occurs first.

(2) A licensed physical therapist may not concurrently supervise more than two full-time assistants or the equivalent. This supervision does not require the presence of the assistant.

(3) A physical therapy aide shall practice under the onsite supervision of a licensed physical therapist or a licensed assistant. A licensed assistant may not concurrently supervise more than one full-time aide or the equivalent. A licensed physical therapist may not concurrently supervise more than four aides or the equivalent or two assistants and two aides or the equivalent.

(4) A physical therapy student or physical therapist assistant student shall practice with the onsite supervision of a licensed physical therapist.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 293

[HB 455]

AN ACT UPDATING THE COMMISSIONER OF POLITICAL PRACTICES DEADLINE TO CERTIFY POLITICAL CANDIDATES FOR MUNICIPAL RACES; AMENDING SECTION 13-37-126, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-37-126, MCA, is amended to read:

“13-37-126. Names not to appear on ballot – statewide initiative not to appear on ballot. (1) The name of a candidate may not appear on the official ballot for an election if the candidate or a treasurer for a candidate fails to file any statement or report as required by 2-2-106 or this chapter.

(2) A vacancy on an official ballot under subsection (1) may be filled in the manner provided by law, but not by the same candidate.

(3) A statewide initiative may not appear on the official ballot for an election if the treasurer for the primary ballot committee supporting the statewide initiative fails to file any report as required by this chapter.

(4) A vacancy on an official ballot under subsection (3) may not be filled.

(5) (a) In carrying out the mandate of this section, the commissioner shall, by a written statement, notify the secretary of state and the election administrator conducting an election when a candidate or a candidate’s treasurer has not complied with 2-2-106 or when a candidate or candidate’s treasurer or the treasurer for the primary ballot committee supporting a statewide initiative has not complied with the provisions of this chapter and that the candidate’s name or the statewide initiative may not appear on the official ballot.

(b) Except as provided in subsection (5)(c), the commissioner shall provide the notification:

(i) 2 calendar days before the certification deadline provided in 13-10-208 for statewide primary elections and 20-20-401 for school district elections; and

(ii) 7 days before the certification deadline provided in 13-12-201 for general elections.

(c) (i) For a municipal primary election, the commissioner shall provide the notification no later than 5 days after the candidate filing deadline.

~~(ii) For a municipal general election, the commissioner shall provide the notification no later than September 30 or, if September 30 falls on a Saturday or Sunday, no later than the preceding Friday.~~

(ii) For a municipal general election, the commissioner shall provide the notification no later than September 24 or, if September 24 falls on a Saturday or Sunday, no later than the preceding Friday.”

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to all municipal primary elections and municipal general elections held on or after April 20, 2025.

Approved May 1, 2025

CHAPTER NO. 294

[HB 458]

AN ACT GENERALLY REVISING LAWS RELATED TO PHYSICIAN ASSISTANTS; INCLUDING "PHYSICIAN ASSISTANT" IN THE DEFINITION OF "HEALTH CARE PROVIDER"; AMENDING SECTION 25-9-411, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 25-9-411, MCA, is amended to read:

"25-9-411. (Temporary) Medical malpractice noneconomic damages limitation. (1) (a) In a malpractice claim or claims against one or more health care providers based on a single incident of malpractice, an award for past and future damages for noneconomic loss may not exceed \$250,000. All claims for noneconomic loss deriving from injuries to a patient are subject to an award not to exceed \$250,000. This limitation applies whether:

(i) based on the same act or a series of acts that allegedly caused the injury, injuries, death, or deaths on which the action or actions are based; or

(ii) the act or series of acts were by one or more health care providers.

(b) If a single incident of malpractice injures multiple, unrelated patients, the limitation on awards contained in subsection (1)(a) applies to each patient and all claims deriving from injuries to that patient.

(2) (a) For purposes of the limitation on awards contained in subsection (1), a claimant has the burden of proving separate injuries, each arising from a different act or series of acts. An award or combination of awards in excess of \$250,000 must be reduced to \$250,000, after which the court shall make other reductions that are required by law. If a combination of awards for past and future noneconomic loss is reduced in the same action, future noneconomic loss must be reduced first and, if necessary to reach the \$250,000 limit, past noneconomic loss must then be reduced. If a combination of awards is reduced to \$250,000, a claimant's share of the \$250,000 must be the same percentage as the claimant's share of the combined awards before reduction.

(b) For each claimant, further reductions must be made in the following order:

(i) first, reductions under 27-1-702;

(ii) second, reductions under 27-1-703; and

(iii) third, setoffs and credits to which a defendant is entitled.

(3) An award of future damages for noneconomic loss may not be discounted to present value.

(4) The \$250,000 limit provided for in subsection (1) may not be disclosed to a jury.

(5) As used in this section, the following definitions apply:

(a) "Claimant" includes but is not limited to:

(i) a person suffering bodily injury;

(ii) a person making a claim as a result of bodily injury to or the death of another;

(iii) a person making a claim on behalf of someone who suffered bodily injury or death;

(iv) the representative of the estate of a person who suffered bodily injury or death; or

(v) a person bringing a wrongful death action.

(b) "Health care provider" means a physician, *physician assistant*, dentist, podiatrist, optometrist, chiropractor, physical therapist, or nurse licensed under Title 37 or a health care facility licensed under Title 50, chapter 5.

(c) "Malpractice claim" means a claim based on a negligent act or omission by a health care provider in the rendering of professional services that is the proximate cause of a personal injury or wrongful death.

(d) "Noneconomic loss" means subjective, nonmonetary loss, including but not limited to:

(i) physical and mental pain or suffering;

(ii) emotional distress;

(iii) inconvenience;

(iv) subjective, nonmonetary loss arising from physical impairment or disfigurement;

(v) loss of society, companionship, and consortium, other than household services;

(vi) injury to reputation; and

(vii) humiliation.

(e) "Patient" means a person who receives services from a health care provider. (Terminates on occurrence of contingency--sec. 11(2), Ch. 429, L. 1997.)

25-9-411. (Effective on occurrence of contingency) Medical malpractice noneconomic damages limitation. (1) (a) In a malpractice claim or claims against one or more health care providers based on a single incident of malpractice, an award for past and future damages for noneconomic loss may not exceed \$250,000. All claims for noneconomic loss deriving from injuries to a patient are subject to an award not to exceed \$250,000. This limitation applies whether:

(i) based on the same act or a series of acts that allegedly caused the injury, injuries, death, or deaths on which the action or actions are based; or

(ii) the act or series of acts were by one or more health care providers.

(b) If a single incident of malpractice injures multiple, unrelated patients, the limitation on awards contained in subsection (1)(a) applies to each patient and all claims deriving from injuries to that patient.

(2) (a) For purposes of the limitation on awards contained in subsection (1), a claimant has the burden of proving separate injuries, each arising from a different act or series of acts. An award or combination of awards in excess of \$250,000 must be reduced to \$250,000, after which the court shall make other reductions that are required by law. If a combination of awards for past and future noneconomic loss is reduced in the same action, future noneconomic loss must be reduced first and, if necessary to reach the \$250,000 limit, past noneconomic loss must then be reduced. If a combination of awards is reduced to \$250,000, a claimant's share of the \$250,000 must be the same percentage as the claimant's share of the combined awards before reduction.

(b) For each claimant, further reductions must be made in the following order:

(i) first, reductions under 27-1-702; and

(ii) second, setoffs and credits to which a defendant is entitled.

(3) An award of future damages for noneconomic loss may not be discounted to present value.

(4) The \$250,000 limit provided for in subsection (1) may not be disclosed to a jury.

(5) As used in this section, the following definitions apply:

(a) "Claimant" includes but is not limited to:

(i) a person suffering bodily injury;

(ii) a person making a claim as a result of bodily injury to or the death of another;

(iii) a person making a claim on behalf of someone who suffered bodily injury or death;

(iv) the representative of the estate of a person who suffered bodily injury or death; or

(v) a person bringing a wrongful death action.

(b) "Health care provider" means a physician, *physician assistant*, dentist, podiatrist, optometrist, chiropractor, physical therapist, or nurse licensed under Title 37 or a health care facility licensed under Title 50, chapter 5.

(c) "Malpractice claim" means a claim based on a negligent act or omission by a health care provider in the rendering of professional services that is the proximate cause of a personal injury or wrongful death.

(d) "Noneconomic loss" means subjective, nonmonetary loss, including but not limited to:

(i) physical and mental pain or suffering;

(ii) emotional distress;

(iii) inconvenience;

(iv) subjective, nonmonetary loss arising from physical impairment or disfigurement;

(v) loss of society, companionship, and consortium, other than household services;

(vi) injury to reputation; and

(vii) humiliation.

(e) "Patient" means a person who receives services from a health care provider."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 295

[HB 463]

AN ACT ALLOWING A LIMITED LIABILITY COMPANY TO CONVERT TO A CORPORATION OR A LIMITED LIABILITY PARTNERSHIP; PROVIDING REQUIREMENTS FOR A CONVERSION; REQUIRING ALL MEMBERS TO AGREE TO THE CONVERSION; PROVIDING REQUIREMENTS FOR DOCUMENTS THAT MUST BE SUBMITTED IN WRITING; PROVIDING FOR THE EFFECTIVE DATE OF A THE LIMITED LIABILITY COMPANY CONVERSION; PROVIDING DEFINITIONS; AND AMENDING SECTION 35-8-1205, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Conversion of limited liability company to domestic corporation or limited liability partnership. (1) A limited liability company may be converted to a domestic corporation or a limited liability partnership pursuant to this section.

(2) The plan of a conversion of a limited liability company to a domestic corporation or a limited liability partnership must be approved by all of the

members or by a number or percentage of members required for conversion in the operating agreement. If as a result of the conversion one or more interest holders of the converting limited liability company would become subject to interest holder liability, approval of the plan of conversion must require the signing in connection with the transaction, by each affected interest holder, of a separate written consent to become subject to the interest holder liability.

(3) A plan of conversion must be in writing and must:

(a) set forth the terms and conditions of the conversion of the interests of members and transferees of a limited liability company into interests in the converted domestic corporation or limited liability partnership, into cash or other consideration to be paid or delivered as a result of the conversion of the interests of the members, or into a combination of interests, cash, or other consideration; and

(b) contain the name of the converting limited liability company, the name, jurisdiction of formation, and type of entity of the converted domestic corporation or limited liability partnership, the full text that will be in effect immediately after the conversion becomes effective of the articles of incorporation and bylaws of the converted domestic corporation or the partnership agreement and the application for registration of the limited liability partnership, which must be in writing, and other terms and conditions of the conversion.

(4) In addition to the requirements of subsection (3), a plan of conversion may contain any other provision not prohibited by law. The terms of a plan of conversion may be made dependent on facts objectively ascertainable outside the plan in accordance with 35-14-120(11).

(5) After a conversion is approved under subsection (2), the limited liability company shall file articles of conversion and all filing fees in the office of the secretary of state that satisfy the requirements of Title 35 and that contain:

(a) the name of the converting limited liability company;

(b) the name and type of entity of the converted domestic corporation or limited liability partnership;

(c) a statement that the plan of conversion was approved by the members in accordance with subsection (2);

(d) if the converted entity is:

(i) a domestic corporation, the articles of incorporation of the corporation, except that provisions would not be required to be included in a restated articles of incorporation may be omitted; or

(ii) a domestic limited liability partnership, the application for registration of the limited liability partnership; and

(f) if the articles of conversion are not to be effective upon filing, the later date and time on which the articles of conversion will become effective, which may not be more than 90 days after the date of filing.

(6) If the converted entity is a domestic corporation, its articles of incorporation must satisfy the requirements of 35-14-202, except that provisions that would not be required to be included in restated articles of incorporation may be omitted from the articles of incorporation. If the converted entity is a domestic limited liability partnership, its application for registration must satisfy the requirements of 35-10-701, except that the articles of incorporation or application for registration, as applicable, do not need to be signed.

(7) In addition to the requirements of subsection (5), the articles of conversion may contain any other provision not prohibited by law.

(8) A conversion takes effect when the articles of conversion are filed in the office of the secretary of state or at a later date and time specified in the articles of conversion, which may not be more than 90 days after the date of filing.

(9) This section only allows a domestic limited liability company to convert to a domestic corporation or a limited liability partnership.

Section 2. Effect of conversion of limited liability company to domestic corporation or limited liability partnership. (1) When a conversion becomes effective:

(a) all property owned by and every contract right possessed by the converting limited liability company remain the property and contract rights of the converted domestic corporation or limited liability partnership without transfer, reversion, or impairment;

(b) all debts, obligations, and other liabilities of the converting limited liability company remain the debts, obligations, and other liabilities of the converted domestic corporation or limited liability partnership;

(c) the name of the converted domestic corporation or limited liability partnership may be but need not be substituted for the name of the converting limited liability company in any pending action or proceeding;

(d) if the converted entity is a domestic corporation, its articles of incorporation and bylaws become effective;

(e) if the converted entity is a domestic limited liability partnership, the application of registration of the limited liability partnership and its partnership agreement become effective;

(f) the interests of the converting limited liability company are reclassified into shares, interests or other securities, obligations, rights to acquire shares, eligible interests or other securities, cash, or other property in accordance with the terms of the plan of conversion, and the members and transferees of interests of the converting limited liability company are entitled only to the rights provided to them by those terms and to any contractual appraisal rights they may have under the articles of organization or the operating agreement of the converting limited liability company; and

(g) the converted domestic corporation or limited liability partnership is:

(i) incorporated or created under and subject to the provisions of provisions of Title 35, chapter 14, in the case of a converted domestic corporation and the provisions of Title 35, chapter 10, applicable to a limited liability partnership in the case of a converted domestic limited liability partnership;

(ii) the same entity without interruption as the converting limited liability company; and

(iii) considered to have been incorporated or created on the date that the converting limited liability company was originally organized.

(2) Except as otherwise provided in the articles of incorporation of a domestic corporation or the organic law or organic rules of a domestic limited liability partnership, an interest holder of the converting limited liability company who becomes subject to interest holder liability with respect to a domestic corporation or limited liability partnership as a result of the conversion has the interest holder liability only with respect to interest holder liabilities that arise after the conversion becomes effective.

(3) Except as otherwise provided in the organic law or the organic rules of the converting limited liability company, the interest holder liability of an interest holder in a converting limited liability company that converts to a domestic corporation or a limited liability partnership who had interest holder liability with respect to that converting limited liability company before the conversion becomes effective is as follows:

(a) The conversion does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the conversion became effective.

(b) The provisions of the organic law of the converting limited liability company continue to apply to the collection or discharge of any interest holder liabilities preserved by subsection (3)(a) as if the conversion had not occurred.

(c) The interest holder has the rights of contribution from other persons that are provided by the organic law or the organic rules of the converting limited liability company with respect to any interest holder liabilities preserved by subsection (3)(a) as if the conversion had not occurred.

(d) The interest holder does not, by reason of the prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that arise after the conversion becomes effective.

(5) A conversion does not require the converting limited liability company to wind up its affairs and does not constitute or cause the dissolution or termination of the converting limited liability company.

Section 3. Section 35-8-1205, MCA, is amended to read:

“35-8-1205. Definitions. As used in this part, the following definitions apply:

(1) *“Application for registration of limited liability partnership” means the application for registration described in 35-10-701.*

(2) *“Articles of incorporation” has the same meaning as provided in 35-14-140.*

(3) *“Conversion” means a transaction authorized by [Section 1] or 35-8-1210.*

(4) *“Converted entity” means the converting entity as it continues in existence after the conversion and includes a converted domestic corporation, converted limited liability partnership, and converted limited liability company, as applicable, that continues in existence after the conversion.*

(5) *“Converting entity” means the domestic partnership or limited partnership that approves an agreement of conversion pursuant to 35-8-1210 or the converting limited liability company, as applicable.*

(6) *“Converting limited liability company” means a domestic limited liability company that approves a plan of conversion to a domestic corporation or a domestic limited liability partnership pursuant to [section 1].*

(7) *“Corporation” means a corporation formed under the laws of this state or comparable law of another jurisdiction as provided in 30-14-202.*

(8) *“Domestic” means, with respect to an entity, governed as to the entity’s internal affairs by the laws of this state.*

(9) *“General partner” means a partner in a partnership and a general partner in a limited partnership.*

(10) *“Interest holder” has the same meaning as provided in 35-14-140.*

(11) *“Interest holder liability” has the same meaning as provided in 35-14-140.*

(12) *“Limited liability partnership” means a partnership registered as a limited liability partnership under the laws of this state or comparable law of another jurisdiction.*

(13) *“Limited partner” means a limited partner in a limited partnership.*

(14) *“Limited partnership” means a limited partnership formed under the laws of this state or comparable law of another jurisdiction.*

(15) *“Organic law” has the same meaning as provided in 35-14-140.*

(16) *“Organic rules” has the same meaning as provided in 35-14-140.*

(17) *“Partner” means a general partner or a limited partner.*

(18) *“Partnership” means a general partnership formed under the laws of this state or comparable law of another jurisdiction.*

(19) *“Partnership agreement” means an agreement among the partners of a partnership, or a limited partnership, or a limited liability partnership.”*

Section 4. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 35, chapter 8, and the provisions of Title 35, chapter 8, apply to [sections 1 and 2].

Approved May 1, 2025

CHAPTER NO. 296

[HB 464]

AN ACT REVISING INSURANCE LAWS RELATING TO INTEREST OF A NAMED INSURED AND CHANGE OF INTEREST BY TRANSFER ON DEATH; PROVIDING THAT INTEREST IN PROPERTY BY A TRANSFER ON DEATH DEED ON THE DEATH OF AN INSURED DOES NOT AVOID AN INSURANCE OF REAL PROPERTY; AMENDING SECTIONS 33-15-206 AND 72-6-412, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-15-206, MCA, is amended to read:

“33-15-206. Interest of named insured – change of interest on death – transfer. (1) When the name of the person insured is specified in a policy insuring property, the insurance can be applied only to the person’s own proper interest.

(2) A change of interest, by will or succession, on the death of the insured does not avoid an insurance of property, and the insurance passes to the person taking the insured’s interest in the thing insured. *A change of interest in real property by a transfer on death deed on the death of the insured does not avoid an insurance of real property, and the real property insurance coverage continues beyond the death of the named insured in accordance with 72-6-412(5) and policy coverage, including all applicable terms and conditions.*

(3) A transfer of interest by one of several partners, joint owners, or owners in common, who are jointly insured, to the others does not avoid an insurance of property even though it has been agreed that the insurance must cease upon an alienation of the thing insured.”

Section 2. Section 72-6-412, MCA, is amended to read:

“72-6-412. Effect of transfer on death deed at transferor’s death.

(1) Except as otherwise provided in the transfer on death deed, in 72-2-712, 72-2-716, 72-2-813, 72-2-814, 72-6-112, or in this section, and subject to chapter 2, part 2, of this title, on the death of the transferor, the following rules apply to property that is the subject of a transfer on death deed and owned by the transferor at death:

(a) Subject to subsection (1)(b), the interest in the property is transferred to the designated beneficiary in accordance with the deed.

(b) The interest of a designated beneficiary is contingent on the designated beneficiary surviving the transferor. The interest of a designated beneficiary that fails to survive the transferor lapses.

(c) Subject to subsection (1)(d), concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship.

(d) If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one which lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.

(2) Subject to Title 70, chapter 21, a beneficiary takes the property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests to which the property is subject at the transferor’s death.

For *the* purposes of this subsection and Title 70, chapter 21, the recording of the transfer on death deed is deemed to have occurred at the transferor's death.

(3) If a transferor is a joint owner and is:

(a) survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or

(b) the last surviving joint owner, the transfer on death deed is effective.

(4) A transfer on death deed transfers property without covenant or warranty of title even if the deed contains a contrary provision.

(5) *(a) On transfer of interest in the property after the death of the owner pursuant to a transfer on death deed in this section, any real property insurance coverage, including all rights and obligations, on the real property transferred must be extended to cover losses to the real property as if the designated beneficiary identified on the transfer on death deed was the named insured, unless the beneficiary has disclaimed interest in the real property. The beneficiary's temporary coverage terminates the earlier of:*

(i) 45 days after the date of the owner's death;

(ii) the expiration date of the policy; or

(iii) on placement of the beneficiaries' replacement policy.

(b) Nothing in this subsection (5) affects any coverage provided under the policy to household members or others who are considered to be insureds on the death of the owner."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 297

[HB 466]

AN ACT PROVIDING FOR CATEGORICAL EXCLUSIONS IN THE MONTANA ENVIRONMENTAL POLICY ACT; PROVIDING AN EXEMPTION TO THE DEPARTMENT OF ADMINISTRATION FOR CONSTRUCTION AND MAINTENANCE ON STATE LAND; PROVIDING AN EXEMPTION TO THE DEPARTMENT OF COMMERCE FOR HISTORIC PRESERVATION GRANTS; AMENDING SECTION 75-1-220, MCA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2024, the Department of Environmental Quality formed a dedicated work group to review and facilitate numerous open public discussions about the agency's implementation of the Montana Environmental Policy Act;

WHEREAS, the department work group found that the definitions of certain terms in statute and rule, or the lack of definitions, creates unnecessary confusion and challenges in the implementation of a defensible Montana Environmental Policy Act;

WHEREAS, recommendation 3C from the department work group's final report suggests presenting legislation to clarify problematic terms and definitions to provide more certainty for decisionmakers, practitioners, applicants, and the public and to reduce the need for the courts to rely on federal definitions or case law;

WHEREAS, the department work group specifically identified the term "categorical exclusion" as lacking a definition in statute, although it is defined in model rules;

WHEREAS, the federal government, both in rulemaking and statute, has previously adopted numerous categorical exclusions under the National Environmental Policy Act; and

WHEREAS, it is the will of the Legislature to add clarity to the Montana Environmental Policy Act by codifying the term “categorical exclusions” to clearly provide state agencies with the authority to identify actions that do not have a significant impact on the human environment and to exclude those actions from the Montana Environmental Policy Act.

Be it enacted by the Legislature of the State of Montana:

Section 1. Agency determination of categorical exclusion.

(1) (a) A state agency as defined in 2-4-102 shall identify actions that meet the definition of a categorical exclusion as provided in 75-1-220.

(b) A state action identified by a state agency as a categorical exclusion is exempt from the provisions of Title 75, chapter 1, parts 1 and 2.

(c) A state action determined by the state agency as meeting the requirements of a categorical exclusion under the National Environmental Policy Act, 42 U.S.C. 4321 et seq., and 40 CFR, parts 1500 through 1508, is exempt from the provisions of Title 75, chapter 1, parts 1 and 2.

(2) For a state action identified by a state agency as a categorical exclusion, there is a rebuttable presumption that extraordinary circumstances do not exist and that neither an environmental analysis nor an environmental impact statement is required.

(3) State agencies retain all existing authority provided in Title 75, chapter 1, parts 1 and 2, to identify and adopt, as authorized by rule, categorical exclusions and programmatic environmental assessments.

Section 2. Report to legislature. State agencies as defined in 2-4-102 shall track the number and use of categorical exclusions and make those available upon request of the environmental quality council established in 5-16-101.

Section 3. Exemption from environmental review. The department of administration is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when inspecting, contracting, transferring funds, bonding, inventorying, supervising, and carrying out other general powers and duties of the department of administration for the construction, renovation, or repair of a building, structure, or utility infrastructure located above or below ground on land owned by the state and for projects and developments in the long-range building program pursuant to Title 17, chapter 7, part 2.

Section 4. Exemption from environmental review. The department of commerce is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when authorizing grants, administering a grant program, or creating a grant program related to historic preservation pursuant to this part.

Section 5. Section 75-1-220, MCA, is amended to read:

“75-1-220. Definitions. For the purposes of this part, the following definitions apply:

(1) “Alternatives analysis” means an evaluation of different parameters, mitigation measures, or control measures that would accomplish the same objectives as those included in the proposed action by the applicant. For a project that is not a state-sponsored project, it does not include an alternative facility or an alternative to the proposed project itself. The term includes alternatives required pursuant to Title 75, chapter 20.

(2) “Appropriate board” means, for administrative actions taken under this part by the:

(a) department of environmental quality, the board of environmental review, as provided for in 2-15-3502;

(b) department of fish, wildlife, and parks, the fish and wildlife commission, as provided for in 2-15-3402, and the state parks and recreation board, as provided for in 2-15-3406;

(c) department of transportation, the transportation commission, as provided for in 2-15-2502;

(d) department of natural resources and conservation for state trust land issues, the board of land commissioners, as provided for in Article X, section 4, of the Montana constitution;

(e) department of natural resources and conservation for oil and gas issues, the board of oil and gas conservation, as provided for in 2-15-3303; and

(f) department of livestock, the board of livestock, as provided for in 2-15-3102.

(3) *“Categorical exclusion” means a state action that does not individually, collectively, or cumulatively result in a significant adverse effect on the human environment that would require an environmental assessment or environmental impact statement, as determined by agency rulemaking, programmatic review, or statute, unless extraordinary circumstances exist as defined by the agency rulemaking, programmatic review, or statute that would make the designation of categorical exclusion inappropriate.*

(3)(4) *“Complete application” means, for the purpose of complying with this part, an application for a permit, license, or other authorization that contains all data, studies, plans, information, forms, fees, and signatures required to be included with the application sufficient for the agency to approve the application under the applicable statutes and rules.*

(4)(5) *“Cumulative impacts” means the collective impacts on the human environment within the borders of Montana of the proposed action when considered in conjunction with other past, present, and future actions related to the proposed action by location or generic type.*

(5)(6) *“Environmental review” means any environmental assessment, environmental impact statement, or other written analysis required under this part by a state agency of a proposed action to determine, examine, or document the effects and impacts of the proposed action on the quality of the human and physical environment within the borders of Montana as required under this part.*

(6)(7) *“Project sponsor” means any applicant, owner, operator, agency, or other entity that is proposing an action that requires an environmental review. If the action involves state agency-initiated actions on state trust lands, the term also includes each institutional beneficiary of any trust as described in The Enabling Act of Congress, approved February 22, 1899, 25 Stat. 676, as amended, the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329.*

(7)(8) *“Public scoping process” means any process to determine the scope of an environmental review.*

(8)(9) (a) *“State-sponsored project” means:*

(i) a project, program, or activity initiated and directly undertaken by a state agency;

(ii) except as provided in subsection (8)(b)(i) (9)(b)(i), a project or activity supported through a contract, grant, subsidy, loan, or other form of funding assistance from a state agency, either singly or in combination with one or more other state agencies; or

(iii) except as provided in subsection ~~(8)(b)(i)~~ *(9)(b)(i)*, a project or activity authorized by a state agency acting in a land management capacity for a lease, easement, license, or other authorization to act.

(b) The term does not include:

(i) a project or activity undertaken by a private entity that is made possible by the issuance of permits, licenses, leases, easements, grants, loans, or other authorizations to act by the:

(A) department of environmental quality pursuant to Titles 75, 76, or 82;

(B) department of fish, wildlife, and parks pursuant to Title 87, chapter 4, part 4;

(C) board of oil and gas conservation pursuant to Title 82, chapter 11; or

(D) department of natural resources and conservation or the board of land commissioners pursuant to Titles 76, 77, 82, and 85; or

(ii) a project or activity involving the issuance of a permit, license, certificate, or other entitlement for permission to act by another agency acting in a regulatory capacity, either singly or in combination with other state agencies.”

Section 6. Codification instruction. (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 75, chapter 1, part 2, and the provisions of Title 75, chapter 1, part 2, apply to [sections 1 and 2].

(2) [Section 3] is intended to be codified as an integral part of Title 18, chapter 2, and the provisions of Title 18, chapter 2, apply to [section 3].

(3) [Section 4] is intended to be codified as an integral part of Title 22, chapter 3, part 13, and the provisions of Title 22, chapter 3, part 13, apply to [section 4].

Section 7. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 8. Coordination instruction. If House Bill No. 346 and [this act] are passed and approved, then [section 4 of this act] is void.

Section 9. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 298

[HB 467]

AN ACT GENERALLY REVISING DUI LAWS; INCLUDING THE USE OF ORAL FLUID FOR DUI TESTING; AND AMENDING SECTIONS 61-8-806, 61-8-1001, 61-8-1002, AND 61-8-1016, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-8-806, MCA, is amended to read:

“61-8-806. Blood, and breath, and oral fluid tests of commercial vehicle operators – procedure – suspension. (1) A person who operates a commercial motor vehicle upon the ways of this state open to the public is considered to have given consent to one or more tests of the person’s blood, ~~or~~ *or* breath, *or oral fluid* for the purpose of determining a measured amount or detected presence of alcohol in the person’s body if the person is requested to submit to the test or tests by a peace officer who has reasonable grounds to believe that the person was driving or in actual physical control of a commercial motor vehicle upon the ways of this state open to the public while having a measured alcohol concentration or detected presence of alcohol. The

peace officer may designate the blood, ~~or~~ breath, *or oral fluid* test or tests to be administered and may request that the person submit to a preliminary alcohol screening test before a blood, breath, *oral fluid*, or urine test is taken.

(2) A person who is unconscious or who is otherwise incapable of refusal is considered not to have withdrawn the consent provided in subsection (1).

(3) If a person refuses to submit to one or more tests designated by the officer, the test or tests may not be given, but the officer shall immediately seize the person's commercial driver's license and forward the license to the department, along with a report certified under penalty of law that the officer had reasonable grounds to believe that the person was driving or was in actual physical control of a commercial motor vehicle upon ways of this state open to the public while having a measurable alcohol concentration or detected presence of alcohol and that the person had refused to submit to one or more tests upon the request of the officer. Upon receipt of the report, the department shall suspend the license for a period provided in subsection (5).

(4) Upon seizure of a person's commercial driver's license, the peace officer shall issue, on behalf of the department, a temporary 5-day noncommercial driving permit, effective 12 hours after the time of issuance, and shall provide the person with written notice of the license suspension and the right to a hearing under 61-8-808.

(5) Upon receipt of the officer's certified report, the department shall suspend the person's commercial driver's license, with no provision for a restricted probationary commercial driver's license, for:

(a) 1 year, upon a first refusal, except that if the violation occurred in a commercial motor vehicle transporting placardable hazardous materials, the suspension for a first refusal must be for 3 years;

(b) life, upon a second or subsequent refusal at any time as determined from the records of the department, subject to department rules adopted to implement federal rules allowing for driver rehabilitation and license reinstatement, if otherwise eligible, upon service of a minimum period of 10 years' suspension. If the person has a prior conviction of a major offense listed in 61-8-802(2) arising from a separate incident, the conviction has the same effect as a previous testing refusal for purposes of this subsection (5)(b)."

Section 2. Section 61-8-1001, MCA, is amended to read:

"61-8-1001. Definitions. As used in this part, unless the context requires otherwise and unless a different meaning plainly is required, the following definitions apply:

(1) "Aggravated driving under the influence" means a person is in violation of 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d) and:

(a) the person's alcohol concentration, as shown by analysis of the person's blood, breath, *oral fluid*, or other bodily substance, is 0.16 or more;

(b) the person is under the order of a court or the department to equip any motor vehicle the person operates with an approved ignition interlock device;

(c) the person's driver's license or privilege to drive is suspended, cancelled, or revoked as a result of a prior violation of driving under the influence, including a violation of 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d), an offense that meets the definition of aggravated driving under the influence, or a similar offense under previous laws of this state or the laws of another state; or

(d) the person refuses to give a breath sample as required in 61-8-1016 and the person's driver's license or privilege to drive was suspended, cancelled, or revoked under the provisions of an implied consent statute.

(2) "Alcoholic beverage" means a compound produced for human consumption as a drink that contains 0.5% or more of alcohol by volume.

(3) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath, including as used in 16-6-305, 23-2-535, 45-5-207, 67-1-211, and this title.

(4) "Bus" means a motor vehicle with a manufacturer's rated seating capacity of 11 or more passengers, including the driver.

(5) "Camper" has the meaning provided in 61-1-101.

(6) "Commercial motor vehicle" has the meaning provided in 61-1-101.

(7) "Drug" means any substance that when taken into the human body can impair a person's ability to operate a vehicle safely. The term includes the meanings provided in 50-32-101(6), (7), and (14).

(8) "DUI court" means any court that has established a special docket for handling cases involving persons convicted under 61-8-1007 or 61-8-1008 and that implements a program of incentives and sanctions intended to assist a participant to complete treatment ordered pursuant to 61-8-1009 and to end the participant's criminal behavior associated with the use of alcohol or drugs.

(9) "Highway" has the meaning provided in 61-1-101, including the shoulders of the highway.

(10) "Motor home" has the meaning provided in 61-1-101.

(11) "Motor vehicle" has the meaning provided in 61-1-101.

(12) "Open alcoholic beverage container" means a bottle, can, jar, or other receptacle that contains any amount of an alcoholic beverage and that is open or has a broken seal or the contents of which are partially removed.

(13) "Passenger area" means the area designed to seat the driver and passengers while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while the driver or a passenger is seated in the vehicle, including an unlocked glove compartment.

(14) "Under the influence" means that as a result of taking into the body alcohol, drugs, or any combination of alcohol and drugs, a person's ability to safely operate a vehicle has been diminished.

(15) "Vehicle" has the meaning provided in 61-1-101, except that the term does not include a bicycle."

Section 3. Section 61-8-1002, MCA, is amended to read:

"61-8-1002. Driving under influence. (1) A person commits the offense of driving under the influence if the person drives or is in actual physical control of:

(a) a vehicle or a commercial motor vehicle upon the ways of this state open to the public while under the influence of alcohol, any drug, or a combination of alcohol and any drug;

(b) a noncommercial vehicle upon the ways of this state open to the public while the person's alcohol concentration, as shown by analysis of the person's blood, breath, *oral fluid*, or other bodily substance, is 0.08 or more;

(c) a commercial motor vehicle within this state while the person's alcohol concentration, as shown by analysis of the person's blood, breath, *oral fluid*, or other bodily substance, is 0.04 or more;

(d) a noncommercial vehicle or commercial motor vehicle within this state while the person's tetrahydrocannabinol level, excluding inactive metabolites, as shown by analysis of the person's blood or other bodily substance, is 5 ng/ml or more; or

(e) a vehicle within this state when the person is under 21 years of age at the time of the offense while the person's alcohol concentration, as shown by analysis of the person's blood, breath, *oral fluid*, or other bodily substance, is 0.02 or more.

(2) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person driving or in actual physical

control of a vehicle while under the influence of alcohol, the concentration of alcohol in the person at the time of a test, as shown by analysis of a sample of the person's blood, breath, *oral fluid*, or other bodily substance drawn or taken within a reasonable time after the alleged act, gives rise to the following inferences:

(a) if there was at that time an alcohol concentration of 0.04 or less, it may be inferred that the person was not under the influence of alcohol;

(b) if there was at that time an alcohol concentration in excess of 0.04 but less than 0.08, that fact may not give rise to any inference that the person was or was not under the influence of alcohol, but the fact may be considered with other competent evidence in determining the guilt or innocence of the person; and

(c) if there was at that time an alcohol concentration of 0.08 or more, it may be inferred that the person was under the influence of alcohol. The inference is rebuttable.

(3) The provisions of subsection (2) do not limit the introduction of any other competent evidence bearing on the issue of whether the person was under the influence of alcohol, drugs, or a combination of alcohol and drugs.

(4) Each municipality in this state is given authority to enact this section, with the word "state" changed to read "municipality", as an ordinance and is given jurisdiction of the enforcement of the ordinance and the imposition of the fines and penalties provided in the ordinance.

(5) Absolute liability, as provided in 45-2-104, is imposed for a violation of this section.

(6) When the same acts may establish the commission of an offense under subsection (1), a person charged with the conduct may be prosecuted for a violation of another relevant subsection under subsection (1). However, the person may be convicted of only one offense under this section or of a similar offense under previous laws of this state."

Section 4. Section 61-8-1016, MCA, is amended to read:

"61-8-1016. Implied consent – blood, or breath, or oral fluid tests for alcohol, blood or oral fluid for drugs, or testing for both – alcohol and drugs using recognized methods for each – refusal to submit to test – administrative license suspension. (1) (a) A person who operates or is in actual physical control of a vehicle or commercial motor vehicle upon the ways of this state open to the public is considered to have given consent to a test or tests of the person's blood, or breath, or *oral fluid* for the purpose of determining any measured amount or detected presence of alcohol or blood or oral fluid for the purpose of determining any measured amount or detected presence of drugs in the person's body.

(b) The tests in subsection (1)(a) include but are not limited to a preliminary alcohol screening test of the person's breath for the purpose of estimating the person's alcohol concentration.

(c) A preliminary alcohol screening test may not be conducted or requested under this section unless both the peace officer and the instrument used to conduct the test have been certified by the department pursuant to rules adopted under the authority of 61-8-1019(5).

(d) The person's obligation to submit to a test in subsection (1)(a) is not satisfied by the person submitting to a preliminary alcohol screening test pursuant to this section.

(2) (a) The test or tests must be administered at the direction of a peace officer when:

(i) the peace officer has particularized suspicion to believe that the person has been driving or has been in actual physical control of a vehicle upon ways

of this state open to the public while under the influence of alcohol, drugs, or a combination of the two and the person has been detained for a violation of driving under the influence as provided in 61-8-1002 or an offense that meets the definition of aggravated driving under the influence in 61-8-1001;

(ii) the person is under the age of 21 and the peace officer has particularized suspicion to believe that the person has been driving or in actual physical control of a vehicle in violation of 61-8-1002(1)(e); or

(iii) the peace officer has probable cause to believe that the person was driving or in actual physical control of a vehicle or commercial motor vehicle:

(A) in violation of driving under the influence, as provided in 61-8-1002, and the person has been placed under arrest;

(B) in violation of driving under the influence as provided in 61-8-1002, and the person has been involved in a motor vehicle crash or collision resulting in property damage;

(C) and the person has been involved in a motor vehicle accident or collision resulting in serious bodily injury, as defined in 45-2-101, or death; or

(D) in violation of driving under the influence as provided in 61-8-1002 and meets the definition of aggravated driving under the influence in 61-8-1001.

(b) A peace officer may designate which test or tests are administered.

(c) The peace officer shall inform the person of the right to refuse the test and that the refusal to submit to the test will result in the suspension for up to 1 year of that person's driver's license.

(d) A hearing as provided for in 61-8-1017 must be available. The issues in the hearing must be limited to determining whether a peace officer had a particularized suspicion that the person was in violation of 61-8-1002 or an offense meeting the definition of aggravated driving under the influence in 61-8-1001, and whether the person refused to submit to the test.

(e) If a person refuses a preliminary alcohol screening test and another test during the same incident, the department may not consider each a separate refusal for purposes of suspension of the person's driver's license.

(3) A person who is unconscious or who is otherwise in a condition rendering the person incapable of refusal is considered not to have withdrawn the consent requested in subsection (1).

(4) (a) If an arrested person refuses to submit to one or more tests requested and designated by the peace officer, the refused test or tests may not be given unless the person has refused to provide a breath, blood, urine, *oral fluid*, or other bodily substance in a prior investigation in this state or under a substantially similar statute in another jurisdiction or the arrested person has a prior conviction or pending offense for a violation of 45-5-104, 45-5-106, 45-5-205, or driving under the influence, including 61-8-1002, an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under previous laws of this state or a similar statute in another jurisdiction.

(b) On the person's refusal to provide the breath, blood, urine, oral fluid, or other bodily substance requested by the peace officer pursuant to subsection (1) and this subsection (4) may apply for a search warrant to be issued pursuant to 46-5-224 to collect a sample of the person's blood or oral fluid for testing.

(c) (i) On the person's refusal to provide a breath, blood, urine, oral fluid, or other bodily substance, the peace officer shall, on behalf of the department, immediately seize the person's driver's license. The peace officer shall immediately forward the license to the department, along with a report certified under penalty of law stating which of the conditions set forth in subsection (2)(a) provides the basis for the testing request and confirming that the person refused to submit to one or more tests requested and designated by the peace

officer. Upon receipt of the report, the department shall suspend the license for the period provided in 61-8-1032.

(ii) Upon seizure of a driver's license, the peace officer shall issue, on behalf of the department, a temporary driving permit, which is effective 12 hours after issuance and is valid for 5 days following the date of issuance, and shall provide the driver with written notice of the license suspension and the right to a hearing as provided in 61-8-1017.

(iii) A nonresident driver's license seized under this section must be sent by the department to the licensing authority of the nonresident's home state with a report of the nonresident's refusal to submit to one or more tests.

(5) This section does not apply to tests, samples, and analyses of blood, breath, or urine used for purposes of medical treatment or care of an injured motorist, related to a lawful seizure for a suspected violation of an offense not in this part, or performed pursuant to a search warrant.

(6) This section does not prohibit the release of information obtained from tests, samples, and analyses of blood, breath, or urine for law enforcement purposes as provided in 46-4-301 and 61-8-1019(6)."

Approved May 1, 2025

CHAPTER NO. 299

[HB 468]

AN ACT GENERALLY REVISING LAWS RELATED TO WATERCRAFT; REMOVING THE VALIDATION DECAL REQUIREMENT FOR WATERCRAFT; REVISING LAWS RELATED TO BOATING ACCIDENT REPORTING, PERSONAL FLOTATION DEVICES, AND RIGHT-OF-WAY; ELIMINATING THE BOATING ADVISORY COUNCIL; AMENDING SECTIONS 23-2-502, 23-2-511, 23-2-512, 23-2-524, 23-2-525, 23-2-527, 23-2-531, AND 23-2-533, MCA; REPEALING SECTION 23-2-536, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 23-2-502, MCA, is amended to read:

"23-2-502. Definitions. As used in this part, unless the context clearly requires a different meaning, the following definitions apply:

(1) "Certificate of number" means the certificate issued by the department of justice, an authorized agent, as defined in 61-1-101, or a county treasurer to the owner of a motorboat or sailboat, assigning the motorboat or sailboat an identifying number and containing other information as required by the department of justice.

(2) "Department" means the department of fish, wildlife, and parks of the state of Montana.

(3) "Documented vessel" means a vessel that has and is required to have a valid marine document as a vessel of the United States.

(4) "Identifying number" means the boat number set forth in the certificate of number and properly displayed on the motorboat or sailboat.

(5) "Lienholder" means a person holding a security interest.

(6) "Manufacturer" means a person engaged in the business of manufacturing or importing new and unused vessels or new and unused outboard motors for the purpose of sale or trade.

(7) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal source of

propulsion. The term includes boats temporarily equipped with detachable motors or engines.

(b) The term does not include a vessel that has a valid marine document issued by the U.S. coast guard or any successor federal agency.

(8) "Operate" means to navigate or otherwise use a motorboat or a vessel.

(9) "Operator" means the person who navigates, drives, or is otherwise in immediate control of a motorboat or vessel.

(10) (a) "Owner" means a person, other than a lienholder, having the property in or title to a motorboat or vessel. The term includes a person entitled to the use or possession of a motorboat or vessel subject to an interest in another person, reserved or created by an agreement securing payment or performance of an obligation.

(b) The term does not include a lessee under a lease not intended as security.

(11) "Passenger" means each person carried on board a vessel other than:

(a) the owner or the owner's representative;

(b) the operator;

(c) bona fide members of the crew engaged in the business of the vessel who have not contributed any consideration for their carriage and who are paid for their services; or

(d) a guest on board a vessel that is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for the guest's carriage.

(12) "Person" means an individual, partnership, firm, corporation, association, or other entity.

(13) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel.

(14) "Registration decal" means an adhesive sticker produced by the department of justice and issued by the department of justice, an authorized agent as defined in 61-1-101, or a county treasurer to the owner of a motorboat, sailboat, or personal watercraft as proof of payment of fees imposed on the motorboat, sailboat, or personal watercraft for the registration period indicated on the decal as recorded by the department of justice under 61-3-101.

(15) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.

(b) The term does not include a canoe or kayak propelled by wind.

(16) "Security interest" means an interest that is reserved or created by an agreement that secures payment or performance of an obligation and is valid against third parties generally.

(17) "Uniform state waterway marking system" means one of two categories:

(a) a system of aids to navigation to supplement the federal system of marking in state waters;

(b) a system of regulatory markers to warn a vessel operator of dangers or to provide general information and directions.

(18) "Validation decal" means an adhesive sticker produced by the department and issued by the department or a county treasurer to the owner of a motorboat, sailboat, or personal watercraft verifying the identifying number assigned to the motorboat, sailboat, or personal watercraft and the name and address of the owner to meet requirements of the federal standard numbering system.

(19)(17) "Vessel" means every description of watercraft, unless otherwise defined by the department, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(20)(18) "Waters of this state" means any waters within the territorial limits of this state."

Section 2. Section 23-2-511, MCA, is amended to read:

"23-2-511. Operation of unnumbered motorboats or sailboats prohibited – display of registration and validation decals *decal*.

(1) A motorboat on the waters of this state that is propelled by a motor or an engine of any description or a sailboat on the waters of this state must be properly numbered and display *a* valid registration and validation decals *decal*. A person may not operate or give permission for the operation of any motorboat or sailboat on the waters of this state unless the motorboat or sailboat is numbered and displays *a* valid registration and validation decals *decal* in accordance with this part and applicable federal law or with a federally approved numbering system of another state and unless:

(a) the certificate of number assigned to the motorboat or sailboat is in effect;

(b) the identifying number set forth in the certificate of number and the valid license decals *registration decal* are displayed on the motorboat or sailboat; and

(c) a temporary permit has been obtained from the county in which a motorboat is being operated if that county requires a temporary permit for out-of-state motorboats, as provided in 7-16-2121.

(2) Upon transfer of ownership of a motorboat or sailboat, the transferred motorboat or sailboat may be operated on the waters of this state for 40 consecutive calendar days immediately following the transfer of ownership without displaying the registration and validation decals *decal* required by subsection (1) if, when the motorboat or sailboat is operated during those 40 consecutive calendar days, a temporary registration permit has been issued under 61-3-224 and is shown to a warden or other officer upon request."

Section 3. Section 23-2-512, MCA, is amended to read:

"23-2-512. Identifying number. (1) The owner of each motorboat, sailboat, or personal watercraft requiring numbering by this state shall file an application for number in the office of the county treasurer in the county where the motorboat, sailboat, or personal watercraft is owned, on forms prepared and furnished by the department of justice. The application must be signed by the owner of the motorboat, sailboat, or personal watercraft and be accompanied by the fee prescribed in 61-3-321(10). Any alteration, change, or false statement contained in the application renders the certificate of number void. Upon receipt of the application in approved form, the county treasurer shall issue to the applicant a certificate of number prepared and furnished by the department of justice, stating the *identifying* number assigned to the motorboat, sailboat, or personal watercraft and the name and address of the owner. Validation decals verifying the identifying number for each motorboat, sailboat, or personal watercraft must be issued along with the certificate of *The identifying* number and must be displayed on the motorboat, sailboat, or personal watercraft.

(2) The fine for failing to display the validation decals may not be more than the cost incurred by the justice's court.

(3) The department may give only verbal or written warnings until December 31, 2007, for failing to display validation decals in an attempt to educate the boating public.

(4)(2) If the ownership of a motorboat, sailboat, or personal watercraft changes, a new application form with the certification fee must be filed within 40 days with the county treasurer and a new certificate of number assigned in the same manner as provided for in an original assignment of number. ~~New validation decals must be issued simultaneously.~~

(5)(3) If an agency of the United States government has in force a comprehensive system of identification numbering for motorboats in the United States, the numbering system employed pursuant to this part by the department of justice must be in conformity.

~~(6) A certificate of number and validation decals issued under this part are effective unless terminated or discontinued in accordance with the provisions of this part. All motorboats, sailboats, or personal watercraft already numbered must exhibit validation decals by December 31, 2005. All validation decals expire on February 28, 2008. Validation decals must be obtained by the expiration date at any regional office of the department or through the department website and are in effect for another 3-year period ending February 28, 2011. The requirement of renewal validation decals must continue in subsequent 3-year periods, and renewal validation decals must be identified by color in accordance with the federal numbering system. Except as provided in 23-2-511(2) and subsection (4) of this section, the operation of a motorboat, sailboat, or personal watercraft is prohibited without current validation decals.~~

~~(7) Validation decals must be approximately 3 square inches. The validation decals must be serially numbered in accordance with the federal numbering system and must be displayed on each side of the vessel.~~

(8)(4) If ownership is transferred, the purchaser shall notify the county treasurer within 40 days of the acquisition of all or any part of the purchaser's interest, other than the creation of a security interest, in a motorboat, sailboat, or personal watercraft numbered in this state or of the loss, theft, destruction, or abandonment of the motorboat, sailboat, or personal watercraft. The transfer, loss, theft, destruction, or abandonment terminates the certificate of number for the motorboat, sailboat, or personal watercraft. Recovery from theft or transfer of a part interest that does not affect the owner's right to operate the motorboat, sailboat, or personal watercraft does not terminate the certificate of number.

(9)(5) A holder of a certificate of number shall notify the county treasurer within a reasonable time if the holder's address no longer conforms to the address appearing on the certificate and shall furnish the county treasurer with the new address. The department of justice may provide by rule for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or the alteration of an outstanding certificate to show the new address of the holder.

~~(10)(6)~~ (a) (i) The identifying number assigned must be painted on or attached to each outboard side of the forward half of the motorboat, sailboat, or personal watercraft or, if there are no sides, at a corresponding location on both outboard sides of the foredeck of the motorboat, sailboat, or personal watercraft.

(ii) The identifying number assigned must read from left to right in Arabic numerals and block characters of good proportion at least 3 inches tall excluding border or trim of a color that contrasts with the color of the background and be so maintained as to be clearly visible and legible.

(iii) The identifying number may not be placed on the obscured underside of the flared bow where it cannot be easily seen from another vessel or ashore.

(iv) Numerals, letters, or devices other than those used in connection with the identifying number issued may not be placed in the proximity of the identifying number. Numerals, letters, or devices that might interfere with the ready identification of the motorboat, sailboat, or personal watercraft by its identifying number may not be carried in a manner that interferes with the motorboat's, sailboat's, or personal watercraft's identification.

(v) A number other than the identifying number assigned to a motorboat, sailboat, or personal watercraft or granted reciprocity under this part may not be painted, attached, or otherwise displayed on either side of the forward half of the motorboat, sailboat, or personal watercraft.

(vi) A registration decal issued under this part must be placed next to the identifying number located on the left side of a motorboat, sailboat, or personal watercraft or, if there are no sides, at the corresponding location on the left outboard side of the foredeck of the motorboat, sailboat, or personal watercraft. ~~The validation decal must be placed immediately aft of the registration decal on the left side and immediately aft of the identifying number on the right side of a motorboat, sailboat, or personal watercraft.~~

(b) The certificate of number must be pocket size and available to federal, state, or local law enforcement officers at all reasonable times for inspection on the motorboat, sailboat, or personal watercraft whenever the motorboat, sailboat, or personal watercraft is on waters of this state.

(c) Boat liveries are not required to have the certificate of number on board each motorboat, sailboat, or personal watercraft, but a rental agreement must be carried on board livery motorboats, sailboats, or personal watercraft in place of the certificate of number.

~~(11)~~(7) An owner of a motorboat, sailboat, or personal watercraft shall within a reasonable time notify the department of justice, giving the motorboat's, sailboat's, or personal watercraft's identifying number and the owner's name if the motorboat, sailboat, or personal watercraft is transferred, lost, destroyed, or abandoned or within 60 days after a change of the state of principal use or if a motorboat becomes documented as a vessel of the United States.

~~(12) The department shall reimburse the department of justice for any programming costs necessary to implement the provisions of this section that are incurred in fiscal year 2005."~~

Section 4. Section 23-2-524, MCA, is amended to read:

"23-2-524. Passing rule and right-of-way. (1) When two vessels are approaching each other "head on" or nearly so ~~(so as to involve risk of collision)~~, each vessel shall bear to the right and pass the other vessel on its left side *to avoid the risk of collision.*

(2) When vessels approach each other obliquely or at right angles, the vessel ~~approaching on the right side has the right-of-way that has the other vessel on the starboard side shall keep out of the way and shall, if the circumstances of the case require, avoid crossing ahead of the other vessel.~~

~~(3) One vessel may overtake another on either side but shall grant right-of-way to the overtaken vessel. A vessel overtaking another vessel shall keep out of the way of the vessel being overtaken.~~

(4) When a sailboat and motorboat are operating as to involve a risk of collision with each other, the motorboat shall yield ~~the right-of-way~~ to the sailboat in all cases."

Section 5. Section 23-2-525, MCA, is amended to read:

"23-2-525. Restricted areas. (1) A person may not anchor a vessel or ~~other place another obstacle for fishing or pleasure purposes~~ on any body of water over which the state has jurisdiction in a position that obstructs a passageway ordinarily used by other vessels.

(2) A person may not operate a pleasure vessel within 20 feet of the exterior boundary of a water area that is clearly marked by buoys or some other distinguishing device as a bathing or swimming area. Swimming areas must be marked with white buoys having international orange markings in conformance with the uniform state waterway marking system by the owners of the areas.

(3) A person may not operate a vessel within 75 feet of a person engaged in fishing or hunting waterfowl, unless unavoidable. If unavoidable, the vessel must be operated at not greater than no-wake speed or at a minimum speed necessary to maintain upstream progress while within 75 feet of the person engaged in fishing or hunting waterfowl.

(4) (a) A person may not purposely, knowingly, or negligently operate a motorboat upon the waters of this state within 200 feet of a tow-float or buoy displaying a "diver-down" symbol, red with a white slash, on a flag.

(b) The motorboat may enter the 200-foot safety zone by use of sail or oar. In an emergency or if there is insufficient water on either side of the 200-foot safety zone to pass by and stay out of the zone, the operator may use power within the zone but may not exceed no-wake speed. The burden of proving that an emergency exists or that there is insufficient water is on the operator.

(c) The fish and wildlife commission may by rule determine areas where establishment of a 200-foot safety zone is not allowed in order to provide for diver safety or the regulation of water traffic."

Section 6. Section 23-2-527, MCA, is amended to read:

"23-2-527. Collisions, accidents, and casualties. (1) The operator of a vessel involved in a collision, accident, or other casualty, so far as the operator can do so without serious danger to the operator's own vessel, crew, and passengers, shall render to other persons affected by the collision, accident, or other casualty assistance that may be practicable and that may be necessary in order to save them from or minimize any danger caused by the collision, accident, or other casualty. The operator shall give the operator's name, address, and identification of the operator's vessel in writing to any person injured and to the owner or person in control of any property damaged in the collision, accident, or other casualty.

(2) The department shall prepare and distribute to each sheriff's office and each game warden of this state a standardized accident report form. A person involved in a collision, accident, or other casualty involving a death, disappearance, personal injury, or property damage in excess of ~~\$100~~ **\$2,000** shall immediately report the collision, accident, or other casualty to the sheriff's office or game warden of the county in which the collision, accident, or casualty occurred and fill out a standardized accident report form.

(3) A sheriff advised of a collision, accident, or other casualty reported under this part shall:

(a) conduct an appropriate investigation of the collision, accident, or other casualty; and

(b) prepare and submit a report of the results of the investigation, together with the completed standardized accident report forms, to the department."

Section 7. Section 23-2-531, MCA, is amended to read:

"23-2-531. Personal watercraft operation. In addition to applicable provisions in this part, a person may not operate a personal watercraft:

(1) unless a person operating or riding on the vessel is wearing a United States coast guard approved type I, H, HH, ~~or V~~ of personal flotation device;

(2) if the vessel is equipped by the manufacturer with a lanyard type engine cutoff switch unless the lanyard is attached to the operator's person, clothing, or personal flotation device as is appropriate for the specific vessel;

(3) (a) except as provided for standup personal watercraft in subsection (3)(b) or when towing a waterskier from or to a dock or shore, at greater than no-wake speed within 200 feet of a dock, swimmer, swimming raft, nonmotorized boat, or anchored vessel on a lake or river;

(b) at greater than the minimum speed necessary to operate a personal watercraft when leaving or returning directly from or to a dock or shore for the purpose of launching or docking; or

(4) on any surface waters restricted in whole or in part by rule of the fish and wildlife commission;

(5) in a reckless or negligent manner. Actions prohibited in 23-2-523 are considered reckless operation.”

Section 8. Section 23-2-533, MCA, is amended to read:

“23-2-533. Use of allocated funds for boating facilities. (1) Funds allocated to the motorboat account must be used by the department to:

(a) improve, operate, or maintain boating facilities; ~~and~~

(b) ~~cover costs associated with the boating advisory council created in 23-2-536.~~

(2) The department may use the funds to match available federal funds to the extent possible. ~~Expenditure of funds must be made after consideration of recommendations by the boating advisory council.”~~

Section 9. Repealer. The following section of the Montana Code Annotated is repealed:

23-2-536. Creation of boating advisory council -- appointment of members -- duties.

Section 10. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 300

[HB 471]

AN ACT REVISING SCHOOL LAWS RELATED TO HUMAN SEXUALITY AND IDENTITY INSTRUCTION TO INCREASE THE TRANSPARENCY OF CURRICULUM AND STRENGTHEN THE RIGHTS OF PARENTS TO CONTROL THEIR CHILD'S INSTRUCTION BY REQUIRING PARENT OR GUARDIAN PERMISSION FOR A CHILD TO RECEIVE IDENTITY INSTRUCTION; REVISING REQUIREMENTS FOR SCHOOLS TO PROVIDE NOTICE TO PARENTS AND GUARDIANS PRIOR TO THE PROVISION OF HUMAN SEXUALITY INSTRUCTION; PROVIDING AND REVISING DEFINITIONS; REQUIRING TRUSTEES TO REPORT VIOLATIONS TO THE BOARD OF PUBLIC EDUCATION; AMENDING SECTION 20-7-120, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-7-120, MCA, is amended to read:

“20-7-120. Excused absences from curriculum requirements Human sexuality instruction – notice to parents – excused absences – prohibited activities. (1) (a) A parent, guardian, or other person who is responsible for the care of a child may refuse to allow the child to attend or withdraw the child from ~~a course of instruction, a class period, an assembly, an organized school function, or instruction provided by the district through its staff or guests invited at the request of the district~~ regarding human sexuality

instruction. The withdrawal or refusal to attend is an excused absence pursuant to 20-5-103.

(b) A school may not allow a child to attend identity instruction unless the child's parent or guardian agrees in writing to allow the child to attend. Pursuant to 20-5-103, a child is excused from participating in identity instruction unless the child fails to attend after the parent or guardian has agreed in writing to allow the child's attendance. A school may allow a parent or guardian the opportunity to provide the agreement under this subsection (1)(b) at the beginning of a school year or semester as part of the annual notification under subsection (3) but shall allow a parent or guardian to cancel the agreement by providing written notification to the district superintendent at any time.

~~(2) Any school implementing or maintaining a curriculum, providing materials, or holding an event or assembly at which the district that provides human sexuality instruction, whether introduced by school educators, administrators, or officials or by guests invited at the request of the school, or identity instruction shall adopt a policy ensuring parental or guardian notification no less than 48 hours no fewer than 5 school days or more than 14 school days prior to holding an event or assembly or first introducing materials for instructional use. Additional notifications after providing notice under this subsection are not required.~~

~~(3) A~~ *Using contact information most recently provided by the parent or guardian, a school district shall annually notify in advance the parent or guardian of each student scheduled to be enrolled in a course that includes units or lessons on human sexuality instruction or identity instruction in the district or school in advance of the instruction of:*

(a) the basic content of the district's or school's human sexuality instruction or identity instruction intended to be taught to the student and the option to review all curriculum materials related to human sexuality instruction or identity instruction in the course pursuant to subsection (5); and

(b) the parent's or guardian's right to withdraw the student from the district's or school's human sexuality instruction; and

(c) the requirement that the parent or guardian provide written permission to allow the child to attend identity instruction.

(4) In addition to the notice required in subsection (3), a school district shall adopt a policy to ensure an annual notice is available, including an electronic link to materials or summaries of materials, consistent with copyright laws, for:

(a) the district's health enhancement curriculum, including lesson plans or other materials used for human sexuality instruction or identity instruction; and

(b) a calendar of events or assemblies at which human sexuality instruction or identity instruction will be provided.

~~(4)(5)~~ *(a) A school district shall make all curriculum materials used in the district's or school's human sexuality instruction and identity instruction available for public inspection prior to the use of the materials in actual instruction.*

(b) A school district shall prepare a summary of the district's health enhancement curriculum and shall review and prepare any updates to the summary each year. The summary is public information and is subject to the public's right to access information pursuant to 2-6-1003.

~~(5)(6)~~ *A school district or its personnel or agents may not permit a person, entity, or any affiliate or agent of the person or entity to offer, sponsor, or furnish in any manner any course materials or instruction relating to human sexuality or sexually transmitted diseases to its students or personnel if the*

person, entity, or any affiliate or agent of the person or entity is a provider of abortion services.

(7) If, after investigating a violation under this section, the trustees of a district find that an individual has knowingly or repeatedly violated this section, the trustees shall report the findings to the board of public education pursuant to 20-4-110.

(6)(8) (a) For the purposes of this section, the following terms apply:

(i) “human Human sexuality instruction” means ~~teaching or otherwise providing information about human sexuality, including intimate relationships, human~~ instruction that has the goal or purpose of studying, exploring, or informing students about any of the following human sexuality topics: intimate relationships, sexual anatomy, sexual reproduction, sexually transmitted infections, sexual acts, ~~sexual orientation, gender identity~~; abstinence, contraception, or reproductive rights and responsibilities.

(ii) “Identity instruction” means instruction that has the goal or purpose of studying, exploring, or informing students about gender identity or gender expression, or sexual orientation.

(iii) “Instruction” means the conduct of organized learning activities, including the provision of materials, for students in a public school, whether conducted by a teacher or other school staff or guests invited at the request of the school or district and regardless of the duration, venue, or method of delivery.

(b) Neither “human sexuality instruction” nor “identity instruction” includes or applies to a teacher’s response to an unexpected student-initiated inquiry related to the topics under each term to the extent necessary to resolve the inquiry or to maintain civility and decorum in the classroom.”

Section 2. Effective date. [This act] is effective July 1, 2025.

Approved May 1, 2025

CHAPTER NO. 301

[HB 473]

AN ACT ALLOWING MEDICARE FEE SCHEDULES ISSUED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES TO BE ADOPTED BY RULE BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; PROVIDING FOR ADOPTION OF MEDICARE FEE SCHEDULES ISSUED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES; PROVIDING FOR AUTOMATIC INCORPORATION OF UPDATED MEDICARE FEE SCHEDULES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-4-302, 2-4-305, 2-4-306, 2-4-307, AND 53-6-113, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-4-302, MCA, is amended to read:

“2-4-302. Notice, hearing, and submission of views. (1) (a) Prior to the adoption, amendment, or repeal of any rule, the agency shall give written notice of its proposed action. The proposal notice must include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, the reasonable necessity for the proposed action, and the time when, place where, and manner in which interested persons may present their views on the proposed action. The reasonable necessity must be written in plain, easily understood language.

(b) The agency shall state in the proposal notice the date on which and the manner in which contact was made with the primary sponsor as required in subsection (2)(e). If the notification to the primary sponsor was given by mail, the date stated in the proposal notice must be the date on which the notification was mailed by the agency. If the proposal notice fails to state the date on which and the manner in which the primary sponsor was contacted, the filing of the proposal notice under subsection (2)(a) is ineffective for the purposes of this part and for the purposes of the law that the agency cites in the proposal notice as the authority for the proposed action.

(c) If the agency proposes to adopt, increase, or decrease a monetary amount that a person shall pay or will receive, such as a fee, cost, or benefit, the notice must include an estimate, if known, of:

(i) the cumulative amount for all persons of the proposed increase, decrease, or new amount; and

(ii) the number of persons affected.

(2) (a) The proposal notice must be filed with the secretary of state for publication in the register, as provided in 2-4-312. When the agency files the proposal notice with the secretary of state to prepare it for publication in the register, the agency shall concurrently send an electronic copy of the proposal notice to the appropriate administrative rule review committee. If the secretary of state requires formatting changes to the proposal notice before it may be published, the agency is not required to send another copy of the proposal notice to the committee. The requirement to concurrently send a copy of the proposal notice to the committee is fulfilled if the agency sends an electronic copy to each member of the staff of the appropriate rule review committee on the same day that the notice is filed with the secretary of state.

(b) (i) Except as provided in subsection (2)(b)(ii), within 3 days of publication, a copy of the published proposal notice must be sent to interested persons who have made timely requests to the agency to be informed of its rulemaking proceedings, and to the office of any professional, trade, or industrial society or organization or member of those entities who has filed a request with the appropriate administrative rule review committee when the request has been forwarded to the agency as provided in subsection (2)(c).

(ii) In lieu of sending a copy of the published proposal notice to an interested person who has requested the notice, the agency may, with the consent of that person, send that person an electronic notification that the proposal notice is available on the agency's website and an electronic link to the part of the agency's website or a description of the means of locating that part of the agency's website where the notice is available.

(iii) Each agency shall create and maintain a list of interested persons and the subject or subjects in which each person on the list is interested. A person who submits a written comment or attends a hearing in regard to proposed agency action under this part must be informed of the list by the agency. An agency complies with this subsection (2)(b)(iii) if it includes in the proposal notice an advisement explaining how persons may be placed on the list of interested persons and if it complies with subsection (7).

(c) The appropriate administrative rule review committee shall forward a list of all organizations or persons who have submitted a request to be informed of agency actions to the agencies that the committee oversees that publish rulemaking notices in the register. The list must be amended by the agency upon request of any person requesting to be added to or deleted from the list.

(d) The proposal notice required by subsection (1) must be published at least 30 days in advance of the agency's proposed action. The agency shall

post the proposal notice on a state digital access system or other electronic communications system available to the public.

(e) (i) When an agency begins to work on the substantive content and the wording of a proposal notice for a rule that initially implements legislation, the agency shall contact, as provided in subsection (8), the legislator who was the primary sponsor of the legislation to:

(A) obtain the legislator's comments;

(B) inform the legislator of the known dates by which each step of the rulemaking process must be completed; and

(C) provide the legislator with information about the time periods during which the legislator may comment on the proposed rules, including the opportunity to provide comment to the appropriate administrative rule review committee.

(ii) If the legislation affected more than one program, the primary sponsor must be contacted pursuant to this subsection (2)(e) each time that a rule is being proposed to initially implement the legislation for a program.

(iii) Within 3 days after a proposal notice covered under subsection (2)(e)(i) has been published as required in subsection (2)(a), a copy of the published notice must be sent to the primary sponsor contacted under this subsection (2)(e).

(3) If a statute provides for a method of publication different from that provided in subsection (2), the affected agency shall comply with the statute in addition to the requirements contained in this section. However, the notice period may not be less than 30 days or more than 6 months.

(4) Prior to the adoption, amendment, or repeal of any rule, the agency shall afford interested persons at least 20 days' notice of a hearing and at least 28 days from the day of the original notice to submit data, views, or arguments, orally or in writing. If an amended or supplemental notice is filed, additional time may be allowed for oral or written submissions. In the case of substantive rules, the notice of proposed rulemaking must state that opportunity for oral hearing must be granted if requested by either 10% or 25, whichever is less, of the persons who will be directly affected by the proposed rule, by a governmental subdivision or agency, by the appropriate administrative rule review committee, or by an association having not less than 25 members who will be directly affected. If the proposed rulemaking involves matters of significant interest to the public, the agency shall schedule an oral hearing.

(5) An agency may continue a hearing date for cause. In the discretion of the agency, contested case procedures need not be followed in hearings held pursuant to this section. If a hearing is otherwise required by statute, nothing in this section alters that requirement.

(6) If an agency fails to publish a notice of adoption within the time required by 2-4-305(7) and the agency again proposes the same rule for adoption, amendment, or repeal, the proposal must be considered a new proposal for purposes of compliance with this chapter.

(7) At the commencement of a hearing on the intended action, the person designated by the agency to preside at the hearing shall:

(a) read aloud the "Notice of Function of Administrative Rule Review Committee" appearing in the register; and

(b) inform the persons at the hearing of the provisions of subsection (2)(b) and provide them an opportunity to place their names on the list.

(8) (a) For purposes of contacting primary sponsors under subsection (2)(e), a current or former legislator who wishes to receive notice shall keep the current or former legislator's name, address, e-mail address, and telephone number on file with the secretary of state. The secretary of state may also use

legislator contact information provided by the legislative services division for the purposes of the register. The secretary of state shall update the contact information whenever the secretary of state receives corrected information from the legislator or the legislative services division. An agency proposing rules shall consult the register when providing sponsor contact.

(b) An agency has complied with the primary bill sponsor contact requirements of this section when the agency has attempted to reach the primary bill sponsor at the legislator's address, e-mail address, and telephone number on file with the secretary of state pursuant to subsection (8)(a). If the agency is able to contact the primary sponsor by using less than all of these three methods of contact, the other methods need not be used.

(9) This section applies to the department of labor and industry adopting a rule relating to a commercial drug formulary as provided in 39-71-704. This section does not apply to the automatic updating of department of labor and industry rules relating to commercial drug formularies as provided in 39-71-704.

(10) (a) *This section applies to the department of public health and human services' adoption of rules relating to medicare fee schedules issued by the centers for medicare and medicaid services of the United States department of health and human services as provided in 53-6-113.*

(b) *This section does not apply to the automatic updating of department of public health and human services rules relating to medicare fee schedules issued by the centers for medicare and medicaid services of the United States department of health and human services."*

Section 2. Section 2-4-305, MCA, is amended to read:

"2-4-305. Requisites for validity – authority and statement of reasons. (1) (a) The agency shall fully consider written and oral submissions respecting the proposed rule, including comments submitted by the primary sponsor of the legislation prior to the drafting of the substantive content and wording of a proposed rule that initially implements legislation.

(b) (i) Upon adoption of a rule, an agency shall issue a concise statement of the principal reasons for and against its adoption, incorporating in the statement the reasons for overruling the considerations urged against its adoption. If substantial differences exist between the rule as proposed and as adopted and the differences have not been described or set forth in the adopted rule as that rule is published in the register, the differences must be described in the statement of reasons for and against agency action. When written or oral submissions have not been received, an agency may omit the statement of reasons.

(ii) If an adopted rule that initially implements legislation does not reflect the comments submitted by the primary sponsor, the agency shall provide a statement explaining why the sponsor's comments were not incorporated into the adopted rule.

(2) Rules may not unnecessarily repeat statutory language. Whenever it is necessary to refer to statutory language in order to convey the meaning of a rule interpreting the language, the reference must clearly indicate the portion of the language that is statutory and the portion that is an amplification of the language.

(3) Each proposed and adopted rule must include a citation to the specific grant of rulemaking authority pursuant to which the rule or any part of the rule is adopted. In addition, each proposed and adopted rule must include a citation to the specific section or sections in the Montana Code Annotated that the rule purports to implement. A substantive rule may not be proposed or adopted unless:

(a) a statute granting the agency authority to adopt rules clearly and specifically lists the subject matter of the rule as a subject upon which the agency shall or may adopt rules; or

(b) the rule implements and relates to a subject matter or an agency function that is clearly and specifically included in a statute to which the grant of rulemaking authority extends.

(4) Each rule that is proposed and adopted by an agency and that implements a policy of a governing board or commission must include a citation to and description of the policy implemented. Each agency rule implementing a policy and the policy itself must be based on legal authority and otherwise comply with the requisites for validity of rules established by this chapter.

(5) To be effective, each substantive rule adopted must be within the scope of authority conferred and in accordance with standards prescribed by other provisions of law.

(6) Whenever by the express or implied terms of any statute a state agency has authority to adopt rules to implement, interpret, make specific, or otherwise carry out the provisions of the statute, an adoption, amendment, or repeal of a rule is not valid or effective unless it is:

(a) consistent and not in conflict with the statute; and

(b) reasonably necessary to effectuate the purpose of the statute. A statute mandating that the agency adopt rules establishes the necessity for rules but does not, standing alone, constitute reasonable necessity for a rule. The agency shall also address the reasonableness component of the reasonable necessity requirement by, as indicated in 2-4-302(1) and subsection (1) of this section, stating the principal reasons and the rationale for its intended action and for the particular approach that it takes in complying with the mandate to adopt rules. Subject to the provisions of subsection (8), reasonable necessity must be clearly and thoroughly demonstrated for each adoption, amendment, or repeal of a rule in the agency's notice of proposed rulemaking and in the written and oral data, views, comments, or testimony submitted by the public or the agency and considered by the agency. A statement that merely explains what the rule provides is not a statement of the reasonable necessity for the rule.

(7) A rule is not valid unless notice of it is given and it is adopted in substantial compliance with 2-4-302, 2-4-303, or 2-4-306 and this section, unless notice of adoption of the rule is published within 6 months of the publishing of notice of the proposed rule, and unless the adoption is in compliance with the prohibitions of subsection ~~(11)~~ (12). The measure of whether an agency has adopted a rule in substantial compliance with 2-4-302, 2-4-303, or 2-4-306 and this section is not whether the agency has provided notice of the proposed rule, standing alone, but rather must be based on an analysis of the agency's substantial compliance with 2-4-302, 2-4-303, or 2-4-306 and this section. If an amended or supplemental notice of either proposed or final rulemaking, or both, is published concerning the same rule, the 6-month limit must be determined with reference to the latest notice in all cases.

(8) (a) An agency may use an amended proposal notice or the adoption notice to correct deficiencies in citations of authority for rules and in citations of sections implemented by rules.

(b) An agency may use an amended proposal notice but, except for clerical corrections, may not use the adoption notice to correct deficiencies in a statement of reasonable necessity.

(c) If an agency uses an amended proposal notice to amend a statement of reasonable necessity for reasons other than for corrections in citations of authority, in citations of sections being implemented, or of a clerical nature, the agency shall allow additional time for oral or written comments from the

same interested persons who were notified of the original proposal notice, including from a primary sponsor, if primary sponsor notification was required under 2-4-302, and from any other person who offered comments or appeared at a hearing already held on the proposed rule.

(9) Subject to 2-4-112, if a majority of the members of the appropriate administrative rule review committee notify the committee presiding officer that those members object to all or a portion of a notice of proposed rulemaking, the committee shall notify the agency in writing that the committee objects to all or a portion of the proposal notice and will address the objections at the next committee meeting. Following notice by the committee to the agency, all or a portion of the proposal notice that the committee objects to may not be adopted until publication of the last issue of the register that is published before expiration of the 6-month period during which the adoption notice must be published, unless prior to that time, the committee meets and does not make the same objection. A copy of the committee's notification to the agency must be included in the committee's records.

(10) This section applies to the department of labor and industry adopting a rule relating to a commercial drug formulary as provided in 39-71-704. This section does not apply to the automatic updating of department of labor and industry rules relating to commercial drug formularies as provided in 39-71-704.

(11) (a) *This section applies to the department of public health and human services' adoption of rules relating to medicare fee schedules issued by the centers for medicare and medicaid services of the United States department of health and human services as provided in 53-6-113.*

(b) *This section does not apply to the automatic updating of department of public health and human services rules relating to medicare fee schedules issued by the centers for medicare and medicaid services of the United States department of health and human services.*

~~(11)~~(12) (a) In the year preceding the year in which the legislature meets in regular session, an agency may not adopt a rule between October 1 through the end of the year.

(b) This subsection ~~(11)~~ (12) does not apply to:

(i) an emergency rule adopted under 2-4-303;

(ii) subject to subsection ~~(11)(c)(i)~~ (12)(c)(i), a rule adopted for implementation of a program or policy if the unavailability of information, guidance, or notice precluded adoption of the rule before October 1; or

(iii) subject to subsection ~~(11)(c)(ii)~~ (12)(c)(ii), a rule adopted by providing the proposal notice and statement of reasoning with an opportunity to object to the appropriate administrative rule review committee.

(c) (i) A rule may only be exempted under subsection ~~(11)(b)(ii)~~ (12)(b)(ii) if the notice required under 2-4-302(1)(a) provides a statement explaining why the unavailability of information, guidance, or notice precluded adoption of the rule before October 1.

(ii) A rule may be exempted under subsection ~~(11)(b)(iii)~~ (12)(b)(iii) only if the agency provides a copy of the proposal notice and an explanation of the reason why the rule must be adopted before the end of the year by electronic mail to each member of the committee and the committee staff. If the committee does not object to the proposal within 10 business days after the electronic mail of the proposal and explanation has been sent to the committee, the agency may proceed with adoption of the proposed rule. If, during the 10-day review period, a majority of the members notify the committee presiding officer that those members object to the proposed rulemaking, the presiding officer shall

notify the agency by electronic mail that the committee objects. Following notice of the objection, a rule may not be adopted before the end of the year.”

Section 3. Section 2-4-306, MCA, is amended to read:

“2-4-306. Filing and format – adoption and effective dates – dissemination of emergency rules. (1) Each agency shall file with the secretary of state a copy of each rule adopted by it or a reference to the rule as contained in the proposal notice. A rule is adopted on the date that the adoption notice is filed with the secretary of state and is effective on the date referred to in subsection (4), except that if the secretary of state requests corrections to the adoption notice, the rule is adopted on the date that the revised notice is filed with the secretary of state.

(2) Pursuant to 2-15-401, the secretary of state may prescribe rules to effectively administer this chapter, including rules regarding the printed or electronic format, style, and arrangement for notices and rules that are filed pursuant to this chapter, and may refuse to accept the filing of any notice or rule that is not in compliance with this chapter and the secretary of state’s rules. The secretary of state shall keep and maintain a permanent register of all notices and rules filed, including superseded and repealed rules, that must be open to public inspection and shall provide copies of any notice or rule upon request of any person. Unless otherwise provided by statute, the secretary of state may require the payment of the cost of providing copies.

(3) If the appropriate administrative rule review committee has conducted a poll of the legislature in accordance with 2-4-403, the results of the poll must be published with the rule if the rule is adopted by the agency.

(4) Each rule is effective after publication in the register, as provided in 2-4-312, except that:

(a) if a later date is required by statute or specified in the rule, the later date is the effective date;

(b) subject to applicable constitutional or statutory provisions:

(i) a temporary rule is effective immediately upon filing with the secretary of state or at a stated date following publication in the register; and

(ii) an emergency rule is effective at a stated date following publication in the register or immediately upon filing with the secretary of state if the agency finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare. The agency’s finding and a brief statement of reasons for the finding must be filed with the rule. The agency shall, in addition to the required publication in the register, take appropriate and extraordinary measures to make emergency rules known to each person who may be affected by them.

(c) if, following written administrative rule review committee notification to an agency under 2-4-305(9), the committee meets and under 2-4-406(1) objects to all or some portion of a proposed rule before the proposed rule is adopted, the proposed rule or portion of the proposed rule objected to is not effective until the day after final adjournment of the regular session of the legislature that begins after the notice proposing the rule was published by the secretary of state, unless, following the committee’s objection under 2-4-406(1) and subject to 2-4-112:

(i) the committee withdraws its objection under 2-4-406 before the proposed rule is adopted; or

(ii) the rule or portion of a rule objected to is adopted with changes that in the opinion of a majority of the committee members, as communicated in writing to the committee presiding officer and staff, make it comply with the committee’s objection and concerns.

(5) An agency may not enforce, implement, or otherwise treat as effective a rule proposed or adopted by the agency until the effective date of the rule as provided in this section. Nothing in this subsection prohibits an agency from enforcing an established policy or practice of the agency that existed prior to the proposal or adoption of the rule as long as the policy or practice is within the scope of the agency's lawful authority.

(6) This section applies to the department of labor and industry adopting a rule relating to a commercial drug formulary as provided in 39-71-704. This section does not apply to the automatic updating of department of labor and industry rules relating to commercial drug formularies as provided in 39-71-704.

(7) (a) *This section applies to the department of public health and human services' adoption of rules relating to medicare fee schedules issued by the centers for medicare and medicaid services of the United States department of health and human services as provided in 53-6-113.*

(b) *This section does not apply to the automatic updating of department of public health and human services rules relating to medicare fee schedules issued by the centers for medicare and medicaid services of the United States department of health and human services."*

Section 4. Section 2-4-307, MCA, is amended to read:

"2-4-307. Omissions from ARM or register. (1) An agency may adopt by reference any model code, federal agency rule, rule of any agency of this state, or other similar publication if:

(a) the publication of the model code, rule, or other publication would be unduly cumbersome, expensive, or otherwise inexpedient; and

(b) it is reasonable for the agency to adopt the model code, rule, or other publication for the state of Montana.

(2) The model code, rule, or other publication must be adopted by reference in a rule adopted under the rulemaking procedure required by this chapter. The rule must contain a citation to the material adopted by reference and a statement of the general subject matter of the omitted rule and must state where a copy of the omitted material may be obtained. Upon request of the secretary of state, a copy of the omitted material must be filed with the secretary of state.

(3) (a) The model code, rule, or other publication to be adopted by an agency pursuant to subsection (1):

(i) must be in existence at the time that the agency's notice of proposed rulemaking is published in the register;

(ii) must be available to the public for comment, through either publication in the register or publication in an electronic format on the agency's web page, during the time that the rule adopting the model code, rule, or other publication is itself subject to public comment; and

(iii) except as provided in subsection (3)(b), may not be altered between the time of publication of the notice of proposed rulemaking and the publication of the notice of adoption by the agency proposing the rule unless the alteration is required in order to respond to comments in the rulemaking record of the adopting agency.

(b) If the model code, rule, or other publication is altered by the agency between the time of the publication of the notice of proposed rulemaking and the notice of adoption, the part of the model code, rule, or other publication that is altered by the agency is not adopted unless that part is also subject to a separate process of adoption as provided in this section.

(c) If the model code, rule, or other publication is made available on the agency's website, the website may provide either the full text of the model

code, rule, or other publication or a link to the source of the official electronic text of the model code, rule, or other publication.

(4) A rule originally adopting by reference any model code or rule provided for in subsection (1) may not adopt any later amendments or editions of the material adopted. Except as provided in subsection (6), each later amendment or edition may be adopted by reference only by following the rulemaking procedure required by this chapter.

(5) If requested by a three-fourths vote of the appropriate administrative rule review committee, an agency shall immediately publish the full or partial text of any pertinent material adopted by reference under this section. The committee may not require the publication of copyrighted material. Publication of the text of a rule previously adopted does not affect the date of adoption of the rule, but publication of the text of a rule before publication of the notice of final adoption must be in the form of and is considered to be a new notice of proposed rulemaking.

(6) Whenever later amendments of federal regulations must be adopted to comply with federal law or to qualify for federal funding, only a notice of incorporation by reference of the later amendments must be filed in the register. This notice must contain the information required by subsection (2) and must state the effective date of the incorporation. The effective date may be no sooner than 30 days after the date upon which the notice is published unless the 30 days causes a delay that jeopardizes compliance with federal law or qualification for federal funding, in which event the effective date may be no sooner than the date of publication. A hearing is not required unless requested under 2-4-315 by either 10% or 25, whichever is less, of the persons who will be directly affected by the incorporation, by a governmental subdivision or agency, or by an association having not less than 25 members who will be directly affected. Further notice of adoption or preparation of a replacement page for the ARM is not required.

(7) If a hearing is requested under subsection (6), the petition for hearing must contain a request for an amendment and may contain suggested language, reasons for an amendment, and any other information pertinent to the subject of the rule.

(8) This section does not apply to the automatic updating of department of labor and industry rules relating to commercial drug formularies as provided in 39-71-704

(9) This section does not apply to the automatic updating of department of public health and human services rules relating to medicare fee schedules issued by the centers for medicare and medicaid services of the United States department of health and human services as provided in 53-6-113."

Section 5. Section 53-6-113, MCA, is amended to read:

"53-6-113. Department to adopt rules. (1) The department shall adopt appropriate rules necessary for the administration of the Montana medicaid program as provided for in this part and that may be required by federal laws and regulations governing state participation in medicaid under Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as amended.

(2) The department shall adopt rules that are necessary to further define for the purposes of this part the services provided under 53-6-101 and to provide that services being used are medically necessary and that the services are the most efficient and cost-effective available. The rules may establish the amount, scope, and duration of services provided under the Montana medicaid program, including the items and components constituting the services.

(3) The department shall establish by rule the rates for reimbursement of services provided under this part. The department may in its discretion

set rates of reimbursement that it determines necessary for the purposes of the program. In establishing rates of reimbursement, the department may consider but is not limited to considering:

- (a) the availability of appropriated funds;
- (b) the actual cost of services;
- (c) the quality of services;
- (d) the professional knowledge and skills necessary for the delivery of services; and

(e) the availability of services.

(4) The department shall specify by rule those professionals who may:

- (a) deliver or direct the delivery of particular services; and
- (b) deliver services by means of telehealth in accordance with 53-6-122.

(5) The department may provide by rule for payment by a recipient of a portion of the reimbursements established by the department for services provided under this part.

(6) (a) The department may adopt rules consistent with this part to govern eligibility for the Montana medicaid program, including the medicaid program provided for in 53-6-195. Rules may include but are not limited to financial standards and criteria for income and resources, treatment of resources, nonfinancial criteria, family responsibilities, residency, application, termination, definition of terms, confidentiality of applicant and recipient information, and cooperation with the state agency administering the child support enforcement program under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.

(b) The department may not apply financial criteria below \$15,000 for resources other than income in determining the eligibility of a child under 19 years of age for poverty level-related children's medicaid coverage groups, as provided in 42 U.S.C. 1396a(l)(1)(B) through (l)(1)(D).

(c) The department may not apply financial criteria below \$15,000 for an individual and \$30,000 for a couple for resources other than income in determining the eligibility of individuals for the medicaid program for workers with disabilities provided for in 53-6-195.

(d) (i) The department may not adopt rules or policies requiring a person who is eligible for medicaid pursuant to 53-6-131(1)(e)(ii)(A) to:

(A) make only a cash payment to qualify for medicaid under that subsection; or

(B) only incur medical expenses as a means of qualifying for medicaid under that subsection.

(ii) If a person eligible for medicaid under 53-6-131(1)(e)(ii)(A) is participating in a home and community-based services waiver, the department shall count as an eligible medical expense any medical service or item that a nonwaiver medicaid member is allowed to count as a medical expense to qualify for medicaid under 53-6-131(1)(e)(ii)(A).

(iii) Nothing in this subsection (6)(d) may be construed as preventing a person from making only a cash payment to qualify for medicaid pursuant to 53-6-131(1)(e)(ii)(A).

(7) The department may adopt rules limiting eligibility based on criteria more restrictive than that provided in 53-6-131 if required by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, or if funds appropriated are not sufficient to provide medical care for all eligible persons.

(8) The department may adopt rules necessary for the administration of medicaid managed care systems. Rules to be adopted may include but are not limited to rules concerning:

- (a) participation in managed care;

- (b) selection and qualifications for providers of managed care; and
- (c) standards for the provision of managed care.

(9) Subject to subsection (6), the department shall establish by rule income limits for eligibility for extended medical assistance of persons receiving section 1931 medicaid benefits, as defined in 53-4-602, who lose eligibility because of increased income to the assistance unit, as that term is defined in the rules of the department, as provided in 53-6-134, and shall also establish by rule the length of time for which extended medical assistance will be provided. The department, in exercising its discretion to set income limits and duration of assistance, may consider the amount of funds appropriated by the legislature.

(10) Unless required by federal law or regulation, the department may not adopt rules that exclude a child from medicaid services or require prior authorization for a child to access medicaid services if the child would be eligible for or able to access the services without prior authorization if the child was not in foster care.

(11) (a) *When establishing rates of reimbursement for services provided under this part, the department may adopt by rule medicare fee schedules issued by the centers for medicare and medicaid services of the United States department of health and human services.*

(b) *If the department adopts fee schedules as provided in subsection (11)(a), the schedules automatically incorporate changes and updates furnished by the centers for medicare and medicaid services that are made during the year. The provisions of 2-4-307 do not apply to automatic updates of the fee schedules."*

Section 6. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 302

[HB 474]

AN ACT REVISING THE DATE FOR THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PROVIDE ANNUAL FUNDING FOR INCREASES IN SUPPLEMENTAL MEDICAID PAYMENTS TO HOSPITALS; AMENDING SECTION 53-6-149, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-6-149, MCA, is amended to read:

"53-6-149. State special revenue fund account – administration.

(1) There is a hospital medicaid reimbursement account in the state special revenue fund provided for in 17-2-102.

(2) All money collected under 15-66-102[, except for the money deposited pursuant to 15-66-102(3)(b) into the Montana HELP Act special revenue account provided for in 53-6-1315.] must be deposited in the account.

(3) Money in the account must be used by the department of public health and human services to provide funding ~~[no later than May 5 of each year]~~ *no later than May 15 of each year* for increases in medicaid payments to hospitals and for the costs of collection of the fee and other administrative activities associated with the implementation of increases in the medicaid payments to hospitals. (Bracketed language terminates June 30, 2025, on occurrence of contingency--sec. 48, Ch. 415, L. 2019.)"

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 303

[HB 475]

AN ACT RESTRICTING THE USE OF RESTRAINTS ON PREGNANT INMATES; PROVIDING THAT RESTRAINTS MAY NOT BE USED ON A PREGNANT INMATE DURING LABOR AND DELIVERY EXCEPT IN EXTRAORDINARY CIRCUMSTANCES; AND PROVIDING A DEFINITION.

Be it enacted by the Legislature of the State of Montana:

Section 1. Use of restraints on pregnant inmates restricted – extraordinary circumstances – definition. (1) Restraints may not be used on an inmate known to be pregnant during labor and delivery, except as provided in subsection (2).

(2) (a) Except as provided in subsection (2)(b), restraints may be used on a pregnant inmate during labor and delivery in extraordinary circumstances in which the detention center makes an individualized determination that:

(i) the inmate is an established flight risk; or

(ii) there is a clear threat that the inmate could harm themselves or others.

(b) Leg or waist restraints may not be used on a pregnant inmate during any stage of labor and delivery under any circumstances.

(c) Both the type of restraint applied and the application of the restraint must be done in the least restrictive manner necessary.

(d) Restraints must be removed under the following circumstances:

(i) when the flight risk or threat to harm has been mitigated; or

(ii) at the request of a doctor, nurse, or other health care professional treating the inmate during labor and delivery.

(3) For the purposes of this section, “restraints” means handcuffs, leg shackles, leg irons, belly belts, belly chains, or other restraint devices used to restrict free movement of limbs or appendages, including restraints made of cloth and leather.

Section 2. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 7, chapter 32, part 22, and the provisions of Title 7, chapter 32, part 22, apply to [section 1].

Approved May 1, 2025

CHAPTER NO. 304

[HB 476]

AN ACT ESTABLISHING A GRANT PROGRAM FOR THE INSTALLATION AND MAINTENANCE OF NEWBORN SAFETY DEVICES; PROVIDING AN APPROPRIATION; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Grant program for installation and maintenance of newborn safety devices – rulemaking authority. (1) The department of public health and human services shall award competitive grants to eligible

fire departments, hospitals, and law enforcement agencies for the installation and maintenance of newborn safety devices.

(2) The department may not award more than \$20,000 to an applicant.

(3) An applicant or recipient shall comply with the provisions of 40-6-401 through [section 1] and rules established by the department for the administration of the program.

(4) The department shall adopt rules to implement this section, including provisions for an application process, evaluation criteria, and information reporting by grant recipients.

(5) The department shall report to the children, families, health, and human services interim committee on the status and results of the program by September 30, 2027.

Section 2. Appropriation. There is appropriated \$160,000 from the general fund to the department of public health and human services for the biennium beginning July 1, 2025, for the purposes of [section 1]. Funds that are unencumbered by June 30, 2027, must revert to the general fund.

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 40, chapter 6, part 4, and the provisions of Title 40, chapter 6, part 4, apply to [section 1].

Section 4. Effective date. [This act] is effective July 1, 2025.

Section 5. Termination. [This act] terminates June 30, 2027.

Approved May 1, 2025

CHAPTER NO. 305

[HB 486]

AN ACT REVISING LAWS RELATED TO COMPENSATION FOR DEPUTY SHERIFFS; INCREASING THE PERCENTAGE OF THE SHERIFF'S SALARY THAT IS USED TO CALCULATE THE SALARY FOR DEPUTY SHERIFFS; AND AMENDING SECTION 7-4-2508, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-4-2508, MCA, is amended to read:

"7-4-2508. Compensation of undersheriff and deputy sheriff – definitions. (1) The sheriff shall fix the compensation of the undersheriff at 98% of the salary of that sheriff.

(2) (a) The sheriff shall fix the compensation of the deputy sheriff based ~~upon~~ on a percentage of the salary of that sheriff according to the following schedule:

In counties with a population of:

Below 15,000	85% to 95% 97%
15,000 to 29,999	76% to 95% 97%
30,000 to 74,999	74% to 95% 97%
75,000 and over	72% to 95% 97%

(b) The sheriff shall adjust the compensation of the deputy sheriff within the range prescribed in subsection (2)(a) according to a rank structure in the office.

(3) For *the* purposes of this section, the following definitions apply:

(a) "Compensation" means the base rate of pay and does not mean longevity payments or payments for hours worked overtime.

(b) "Salary of that sheriff" means the total salary provided for in 7-4-2503(1), (2)(b), and (2)(c)."

Approved May 1, 2025

CHAPTER NO. 306

[HB 487]

AN ACT REVISING LAWS RELATED TO THE DEPARTMENT OF TRANSPORTATION; ELIMINATING THE REQUIREMENT THAT THE DEPARTMENT HAVE CERTAIN DIVISIONS; AND AMENDING SECTION 2-15-2501, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-2501, MCA, is amended to read:

"2-15-2501. Department of transportation – head. There is a department of transportation. The department head is the director of transportation appointed by the governor in accordance with 2-15-111. The department may have as many divisions as are necessary., ~~but it must have divisions of:~~

- (1) highways;
- (2) aeronautics;
- (3) administration;
- (4) rail and transit; and
- (5) motor carrier services."

Approved May 1, 2025

CHAPTER NO. 307

[HB 491]

AN ACT GENERALLY REVISING LAWS RELATING TO CONTINUING CARE RETIREMENT COMMUNITY LICENSES; PROVIDING FOR DELIVERY OF ALCOHOL; PROVIDING FOR MULTIPLE CAMPUSES; PROVIDING FOR VARIOUS BUILDINGS OR STRUCTURES AT THE CONTINUING CARE RETIREMENT COMMUNITY; PROVIDING DEFINITIONS; AMENDING SECTIONS 16-3-302, 16-4-315, AND 16-4-1005, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 16-3-302, MCA, is amended to read:

"16-3-302. Sale by retailer for consumption on premises. (1) It is lawful for a licensed retailer to sell and serve beer, either on draft or in containers, to the public to be consumed on the premises of the retailer.

(2) It is lawful for a licensee who has an all-beverages license that the licensee uses at a golf course to sell alcoholic beverages and for a licensee who has a golf course beer and wine license issued under 16-4-109 to sell beer and wine:

(a) in the building or other structural premises constituting the clubhouse or primary indoor recreational quarters of the golf course;

(b) upon department approval and submission of a fee, in an additional building or other structure, one per 9 holes of the golf course, that is designed to serve golfers during the course of play; and

(c) at any place within the boundaries of the golf course, from a portable satellite vehicle or other movable satellite device that is moved from place to place.

(3) It is lawful to consume alcoholic beverages sold as provided in subsection (2) at any place within the boundaries of the golf course, whether inside or outside of a building or other structure.

(4) (a) It is lawful for a licensee who has an all-beverages license or a resort area all-beverages license to sell alcoholic beverages:

(i) in the building or other structural premises constituting the primary indoor lodging quarters of a hotel or other short-term lodging facility;

(ii) if the licensee's premises include a swimming pool, in a permanent, licensed alcohol service structure in the swimming pool area separate from the main licensed premises;

(iii) if the licensee's premises include a ski hill, in up to two permanent, licensed alcohol service structures separate from the main licensed premises within the exterior boundaries of the same premises that are owned, leased, or otherwise under the control of and operated by the same property owner, licensee, and if applicable, concessionaire;

(iv) if the licensee's premises include a golf course, the premises in addition to the main licensed premises may include:

(A) the building or alcohol service structure constituting the clubhouse or primary recreational quarters of the golf course that is separate from the main licensed premises; and

(B) the outdoor area within the boundaries of the golf course.

(b) Buildings or structural premises allowed under this subsection (4) may be separate from the building comprising the main licensed premises but must otherwise meet the premises suitability requirements of 16-3-311. The licensee shall pay an application fee of \$100 for each area allowed under this subsection (4).

(5) (a) It is lawful for a licensee who has an all-beverages license or has a retail license issued under 16-4-105 to sell and serve alcoholic beverages for which the licensee is licensed at a guest ranch as defined in 16-1-106. The guest ranch must be owned by the licensee or by a concessionaire with which the licensee has a concession agreement under 16-4-418. For a license operated at a guest ranch, alcoholic beverages may be served anytime within the outdoor portions of the licensed premises and in one permanent building at any time during the hours allowed under 16-3-304.

(b) An applicant or licensee desiring to operate a license as described in this subsection (5) shall submit to the department a premises floorplan that describes the premises as a guest ranch and depicts both the indoor and outdoor portions of the premises. The floorplan must be submitted to the department as part of a license application or as part of a premises alteration request as described in 16-3-311(2).

(c) A license operated at a guest ranch is subject to the requirements that are applicable to retail licenses generally, including the premises suitability provisions of 16-3-311, except that:

(i) the premises may include any number of temporary, mobile, or partial structures, including but not limited to tents, teepees, yurts, picnic shelters, recreational vehicles, wagons, trailers, or any other structures that are not permanent buildings, provided that all temporary, mobile, or partial structures may not be used for alcohol storage purposes unless approved by the department, and may only be used for alcohol service and consumption if they remain within the licensee's approved outdoor premises area;

(ii) the premises may include any outdoor areas in which the licensee or concessionaire has possessory interest, which may be demonstrated by property ownership records, a lease agreement, a concession agreement, or other evidence of possessory interest acceptable to the department;

(iii) the premises may be separated by roadways, waterways, natural barriers, or fence lines if the premises are otherwise contiguous;

(iv) a perimeter barrier is not required if the property line is otherwise marked; and

(v) the premises may be identified on the license by legal description rather than by building address.

(d) For the purposes of this subsection (5), the term “permanent building” means a fixed, nonmobile structure with floor-to-ceiling exterior walls, a full roof, electrical wiring, and plumbing fixtures.

(6) It is lawful for a licensee who has an all-beverages continuing care retirement community license to sell alcoholic beverages at multiple service locations on the campus as provided in 16-4-315.”

Section 2. Section 16-4-315, MCA, is amended to read:

“16-4-315. Limited all-beverages license for continuing care retirement communities – requirements – rulemaking – definitions.

(1) A continuing care retirement community may apply to the department for a limited, nontransferable all-beverages license ~~that is~~ *licenses provided that each license is approved for only one campus that meets the requirements of this section and are exempt from the quota under 16-4-201 if the following conditions are met:*

(a) the applicant meets the requirements of 16-4-401, complies with 16-4-207 and 16-4-402, and pays an application fee of \$500, which constitutes the first annual license fee. If an application is denied, the department shall refund 75% of the application fee. Annual license renewal fees are as provided in 16-4-501.

(b) the continuing care retirement community has a central dining area at which the alcoholic beverages may be served or purchased for on-premises consumption;

(c) the serving hours for alcoholic beverages are within the hours of 11 a.m. to 8 p.m.;

(d) those serving the alcoholic beverages must be 18 years of age or older and have completed the responsible server and sales training program as provided in 16-4-1005; and

(e) those purchasing the alcoholic beverages must be residents of the continuing care retirement community or guests of a resident of the continuing care retirement community.

(2) The limited all-beverages license for a continuing care retirement community does not authorize gaming or gambling under Title 23, chapter 5, parts 3, 5, or 6, but may allow live bingo or keno if the continuing care retirement community is authorized under 23-5-405 for live bingo and keno and complies with Title 23, chapter 5, part 4.

(3) The limited all-beverage license does not allow sale of an alcoholic beverage for off-premises consumption, is subject to 16-3-241, and does not entitle the licensee to a catering endorsement under 16-4-204.

(4) This section does not ban from the continuing care retirement community’s residential areas the residents’ possession of alcoholic beverages otherwise obtained.

(5) For a license issued under this section, a licensee shall inform the department before making deliveries that the licensee intends to deliver alcohol to a continuing care retirement community to residents’ individual living units,

which may include separate cottages or townhomes, within the designated continuing care retirement community campus as long as the purchaser is verified to be a current resident of the continuing care retirement community.

(6) (a) It is lawful for a licensee approved under this section to sell alcoholic beverages as follows:

(i) in multiple alcohol service locations separately from the main licensed premises as long as those service locations are on the campus, include food service, and are owned, leased, or otherwise under the control of and operated by the licensee;

(ii) on patios, decks, or controlled lawn areas on the campus immediately adjacent to the building in which a license is established. All exterior service locations must have either a natural or artificial boundary that is controlled for access.

(iii) if the licensee's campus includes a swimming pool in or adjacent to a permanent, licensed alcohol service area, in the swimming pool area separate from the main licensed premises.

(b) Buildings or structural premises allowed under this subsection (6) may be separate from the building comprising the main licensed premises but must otherwise meet the premises suitability requirements specified in 16-3-311.

(7) If a continuing care retirement community campus has two or more approved service buildings within the boundaries of the campus, the licensee may also apply to use one noncontiguous storage area to be located within that campus if it meets all requirements to ensure the secure storage of alcoholic beverages and prevent onsite consumption of alcoholic beverages.

(5)(8) The department may make rules to implement this section as necessary to recognize the combination of individual residences and communal areas that a continuing care retirement community represents.

(6)(9) For the purposes of this section, the following definitions apply:

(a) (i) "Campus" means a contiguous area of land in which a continuing care retirement community is operating, consisting of at least one residential facility that provides a graduated level of care. The term may include other facilities that only provide independent living options for individuals 55 years of age or older.

(ii) For the purposes of this section:

(A) a continuing care retirement community licensee may operate multiple continuing care retirement community licenses, so long as each license is approved for only one campus that meets all of the requirements of this section; and

(B) a continuing care retirement community licensee's campus must have a primary address, although licensed buildings and a noncontiguous storage area located on the campus may have differing addresses as appropriate for the campus.

(a)(b) "Continuing care retirement community" means a residential facility on one campus under the same operator that:

(i) is administered under professional licensure by the department of public health and human services; and

(ii) provides to individuals 55 years of age or older an independent living option and a graduated level of care. The graduated level of care, as defined in this section, may include an assisted living facility, as defined in 50-5-101.

(c) (i) "Dining area" means an area designated on a floor plan submitted by the applicant in conjunction with an application for a continuing care retirement community all-beverage license where food is offered to residents of a continuing care retirement community and alcohol may be served.

(ii) *For the purposes of this subsection (9)(c), the term:*

(A) *must be interpreted to allow for more than one drink preparation area in the dining area and to allow a continuing care retirement community to have more than one dining area on campus; and*

(B) *may not be required to include a kitchen facility, kitchen appliances, or similar food preparation areas so long as one dining area within the campus has a kitchen and food preparation area.*

(d) (i) *“Graduated level of care” means a campus that provides more than one level of care.*

(ii) *Options for levels of care on a campus may include but are not limited to the following:*

(A) *independent living;*

(B) *short-term rehabilitation and nursing care; and*

(C) *an assisted living facility as defined in 50-5-101.*

(b)(e) *“Guest” means an individual who is either the nonresident spouse of a resident of the continuing care retirement community or an individual invited by a resident.*

(c)(f) *“On-premises” means within the confines of the continuing care retirement community campus.”*

Section 3. Section 16-4-1005, MCA, is amended to read:

“16-4-1005. Licensees required to ensure training. (1) A licensee shall:

(1)(a) *require each employee who is authorized to sell, serve, or deliver alcoholic beverages in the normal course of employment and the employee’s immediate supervisor to successfully complete training to ensure compliance with state law regarding the sale and service of alcoholic beverages. The training must be completed within 60 days of the employee’s date of hire and every 3 years after the employee’s initial training.*

(2)(b) *maintain employment records verifying employee completion of the training required in subsection (1)(a).*

(2) *A licensee may apply to the department to allow for the delivery of alcohol to a continuing care retirement community residents’ individual living units, which may include separate cottages or townhomes, within the designated continuing care retirement community campus under 16-4-315 as long as the purchaser is verified to be a current resident of the continuing care retirement community and the person delivering is at least 18 years of age and has completed the responsible server and sales training program as provided in this section. No application fee is required.”*

Section 4. Effective date. [This act] is effective July 1, 2025.

Approved May 1, 2025

CHAPTER NO. 308

[HB 493]

AN ACT ESTABLISHING THE CRIME OF POSSESSION OF A STOLEN FIREARM; PROVIDING A PENALTY; AND AMENDING SECTION 45-8-405, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Possession of stolen firearm – penalty. (1) A person commits the offense of possession of a stolen firearm if the person purposely and knowingly receives, possesses, conceals, stores, barter, sells, or disposes of a stolen firearm.

(2) A person convicted of the offense of possession of a stolen firearm shall be imprisoned in the state prison for a term not to exceed 10 years.

Section 2. Section 45-8-405, MCA, is amended to read:

“45-8-405. Pattern of criminal street gang activity. (1) For purposes of this part, “pattern of criminal street gang activity” means the commission, solicitation, conspiracy, or attempt, the adjudication as a delinquent youth for the commission, attempt, or solicitation, or the conviction of two or more of the offenses listed in subsection (2) within a 3-year period, which offenses were committed on separate occasions.

(2) The offenses that form a pattern of criminal street gang activity include:

- (a) deliberate homicide, as defined in 45-5-102;
- (b) assault with a weapon, as defined in 45-5-213;
- (c) intimidation, as defined in 45-5-203;
- (d) kidnapping, as defined in 45-5-302;
- (e) aggravated kidnapping, as defined in 45-5-303;
- (f) robbery, as defined in 45-5-401;
- (g) sexual intercourse without consent, as defined in 45-5-503;
- (h) aggravated sex trafficking, as defined in 45-5-706;
- (i) child sex trafficking, as defined in 45-5-711;
- (j) criminal mischief, as defined in 45-6-101;
- (k) arson, as defined in 45-6-103;
- (l) burglary, as defined in 45-6-204;
- (m) theft, as defined in 45-6-301;
- (n) forgery, as defined in 45-6-325;
- (o) tampering with witnesses and informants, as defined in 45-7-206;
- (p) bringing armed individuals into the state, as defined in 45-8-106;
- (q) unlawful possession of a firearm by a convicted person, as defined in 45-8-313;
- (r) carrying a concealed weapon, as defined in 45-8-316;
- (s) *possession of a stolen firearm, as defined in [section 1];*
- ~~(s)~~(t) possession of a deadly weapon by a prisoner, as defined in 45-8-318;
- ~~(t)~~(u) possession of a destructive device, as defined in 45-8-334;
- ~~(u)~~(v) possession of explosives, as defined in 45-8-335;
- ~~(v)~~(w) possession of a sawed-off firearm, as defined in 45-8-340;
- ~~(w)~~(x) the sale, possession for sale, transportation, manufacture, offer for sale, offer to manufacture, or other offense involving a dangerous drug as prohibited by Title 45, chapter 9;

~~(x)~~(y) use of threat to coerce criminal street gang membership or use of violence to coerce criminal street gang membership provided in 45-8-403.”

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 45, chapter 8, part 3, and the provisions of Title 45, chapter 8, part 3, apply to [section 1].

Approved May 1, 2025

CHAPTER NO. 309

[HB 496]

AN ACT AMENDING LAWS RELATED TO THE RETROCESSION OF JURISDICTION OVER FEDERAL LANDS; PROVIDING FOR ACCEPTANCE OF JURISDICTION OVER FEDERAL LANDS USED FOR MILITARY PURPOSES; AND AMENDING SECTIONS 2-1-215 AND 2-1-216, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-1-215, MCA, is amended to read:

“2-1-215. Acceptance of jurisdiction over federal lands. The consent of the state is hereby given to the retrocession of jurisdiction, either partially or wholly, by the United States of America over lands owned by the United States of America within the boundaries of Montana that are used for national park or military purposes. The governor is authorized to accept for the state retrocession of jurisdiction.”

Section 2. Section 2-1-216, MCA, is amended to read:

“2-1-216. Filing of acceptance of jurisdiction over federal lands.

(1) When the state receives written notification from the authorized official or agent of the United States of America that the United States desires or is willing to relinquish to the state jurisdiction, or a portion thereof of jurisdiction, over certain lands owned by the United States within Montana that are used for national park or military purposes, the governor may accept relinquishment.

(2) After acceptance and approval by the governor, retrocession of jurisdiction becomes effective upon on filing of the original acceptance with the secretary of state of Montana.”

Approved May 1, 2025

CHAPTER NO. 310

[HB 502]

AN ACT ESTABLISHING A BOARD OF ALLIED HEALTH CARE PROFESSIONALS; GENERALLY REVISING PROFESSIONAL AND OCCUPATIONAL LICENSING PROVISIONS AND TRANSFERRING AUTHORITY FOR CLINICAL LABORATORY SCIENCE PRACTITIONERS, RADIOLOGIC TECHNOLOGISTS, AND RESPIRATORY CARE PRACTITIONERS TO THE BOARD OF ALLIED HEALTH CARE PROFESSIONALS; PROVIDING FOR STANDARD ORGANIZATIONAL DUTIES FOR THE BOARD; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AMENDING SECTIONS 37-14-102, 37-14-305, 37-14-322, 37-28-102, 37-28-202, 37-34-103, AND 37-34-305, MCA; REPEALING SECTIONS 2-15-1738, 2-15-1750, 2-15-1753, 37-14-101, 37-14-201, 37-14-202, 37-14-307, 37-14-308, 37-14-311, 37-28-101, 37-28-103, 37-28-104, 37-28-305, 37-34-102, AND 37-34-201, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Board of allied health care professionals. (1) In accordance with 37-1-123, there is a board of allied health care professionals.

(2) The board consists of seven members:

- (a) two clinical laboratory scientists;
- (b) two radiologic technologists;
- (c) two respiratory therapists; and
- (d) one public member.

(3) The board is allocated to the department as prescribed in 2-15-121.

Section 2. Purpose. It is a matter of public interest and concern that the health professions regulated by the board warrant and receive the confidence of the public and that only qualified persons be permitted to practice in each respective field from within or outside of Montana and engage with clients located within the state.

Section 3. Definitions. As used in [sections 2 through 4], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Board" means the board of allied health care professionals provided for in [section 1].

(2) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

Section 4. Duties of board -- rulemaking authority. (1) The board shall:

(a) administer, coordinate, and enforce the provisions of Title 37, chapter 14, 28, 34, and [sections 2 through 4];

(b) for each profession licensed under the chapters listed in subsection (1)(a), establish criteria for licensure;

(c) for each chapter listed under subsection (1)(a), adopt fees in accordance with 37-1-134 for:

(i) applications for licensure;

(ii) examinations;

(iii) initial license issuance; and

(iv) license renewal; and

(d) authorize the department to issue and renew licenses to qualified applicants.

(2) The board may adopt rules necessary to implement the provisions of Title 37, chapters 14, 28, 34, and [sections 2 through 4].

Section 5. Section 37-14-102, MCA, is amended to read:

"37-14-102. Definitions. In this chapter, unless the context clearly requires otherwise, the following definitions apply:

(1) "Board" means the board of ~~radiologic technologists~~ *allied health care professionals* provided for in ~~2-15-1738~~ *[section 1]*.

(2) "Department" means the department of labor and industry.

(3) "General supervision" means face-to-face communication, direction, observation, and evaluation by the radiologist at least monthly, with interim supervision occurring by other methods, such as telephonic, electronic, or written communication.

(4) "License" means an authorization issued by the department to perform x-ray procedures on persons.

(5) "Licensed practitioner" means a person licensed or otherwise authorized by law to practice medicine, dentistry, denturistry, dental hygiene, podiatry, osteopathy, or chiropractic.

(6) "Limited permit technician" means a person who does not qualify for the issuance of a license under the provisions of this chapter but who has demonstrated, to the satisfaction of the board, the capability of performing specified high-quality x-ray procedures without endangering public health and safety.

(7) "Performance of x-ray procedures" means the involvement or completion of any portion of an x-ray procedure that may have an effect on the patient's accumulated x-ray radiation exposure, including positioning of the patient, technique selection, selection of ancillary equipment, initiation of exposure, and darkroom procedures.

(8) "Permit" means an authorization that may be granted by the board to perform x-ray procedures on persons when the applicant's qualifications do not meet standards required for the issuance of a license.

(9) "Radiologic technologist" means a person, other than a licensed practitioner, who has qualified under the provisions of this chapter for the issuance of a license to perform diagnostic x-ray procedures on persons and who performs the following functions in connection with the diagnostic procedure:

(a) operates x-ray equipment to reveal the internal condition of patients for the diagnosis of fractures, diseases, and other injuries;

(b) prepares and positions patients for x-ray procedures;

(c) selects the proper radiographic technique for visualization of specific internal structures of the human body;

(d) selects the proper ancillary equipment to be used in the x-ray procedure to enhance the visualization of the desired structure;

(e) prepares film processing solutions and develops or processes the exposed x-ray film; and

(f) inspects, maintains, and performs minor repairs to x-ray equipment.

(10) "Radiologist" means a person who is licensed to practice medicine under Title 37, chapter 3, who is board eligible or board certified by the American board of radiology, and who resides and practices in Montana.

(11) "Radiologist assistant" means an advanced-level licensed radiologic technologist who works under the supervision of a radiologist to enhance patient care by assisting the radiologist in the diagnostic imaging environment."

Section 6. Section 37-14-305, MCA, is amended to read:

"37-14-305. Issuance of license or permit —fee. The board shall issue a license or permit to each applicant who ~~has submitted a nonrefundable licensing fee set by the board and~~ has met the requirements of this chapter."

Section 7. Section 37-14-322, MCA, is amended to read:

"37-14-322. Inspections. Inspections for compliance with the provisions of this chapter may be performed by:

(1) the board of ~~radiologic technologists~~ *allied health care professionals*;

(2) the department of labor and industry; or

(3) the department of public health and human services."

Section 8. Section 37-28-102, MCA, is amended to read:

"37-28-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Board" means the board of ~~respiratory care practitioners~~ *allied health care professionals* established in ~~2-15-1750~~ *[section 1]*.

(2) "Qualified medical direction" means the direction of:

(a) a medical director of an inpatient or outpatient respiratory care service, a respiratory care department, or a home-care agency; or

(b) a licensed physician with a special interest and knowledge about the diagnosis and treatment of respiratory problems.

(3) (a) "Respiratory care" means the care provided by a member of the allied health profession responsible for the treatment, management, diagnostic testing, and control of patients with deficiencies and abnormalities associated with the cardiopulmonary system. The term includes but is not limited to:

(i) administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care procedures that are necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a physician;

(ii) transcription and implementation of the written or verbal orders of a physician regarding the practice of respiratory care;

(iii) observation and monitoring of a patient's signs and symptoms, general behavior, and physical response to respiratory care treatment and diagnostic testing, including determination of abnormal characteristics;

(iv) implementation of respiratory care protocols pursuant to a prescription by a physician; and

(v) initiation of emergency procedures prescribed by board rules.

(b) Respiratory care is not limited to a hospital setting but must be performed pursuant to a physician's order and under qualified medical direction. The term includes inhalation and respiratory therapy.

(4) "Respiratory care practitioner" means a person who has the knowledge and skill necessary to administer respiratory care and who is licensed under the provisions of part 2 of this chapter.

(5) "Student respiratory care practitioner" means a person:

(a) enrolled in a respiratory care educational program recognized by the joint review committee for respiratory therapy education and the American medical association's committee on allied health education and accreditation, or their successors;

(b) permitted to provide respiratory care under clinical supervision; and

(c) identified as a student respiratory care practitioner or "SRCP."

Section 9. Section 37-28-202, MCA, is amended to read:

"37-28-202. Licensing requirements – examination – fees. (1) To be eligible for licensure by the board as a respiratory care practitioner, ~~the~~ *an* applicant ~~shall must~~:

~~(a) submit to the board an application fee in an amount established by the board and an application demonstrating that the applicant has completed:~~

~~(i)(a) have completed~~ high school or the equivalent; ~~and~~

~~(ii)(b) have completed~~ a respiratory care educational program accredited or provisionally accredited by the American medical association's committee on allied health education and accreditation in collaboration with the joint review committee for respiratory therapy education or their successor organizations; and

~~(b)(c) pass~~ *have passed* an examination prescribed by the board. The board may use the entry-level examination written by the national board for respiratory care or another examination that satisfies the standards of the national commission for health certifying agencies or the commission's equivalent.

(2) A person holding a license to practice respiratory care in ~~this~~ *the* state may use the title "respiratory care practitioner" and the abbreviation "RCP".

Section 10. Section 37-34-103, MCA, is amended to read:

"37-34-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Board" means the board of ~~clinical laboratory science practitioners allied health care professionals~~ established in ~~2-15-1753~~ *[section 1]*.

(2) "Clinical laboratory" or "laboratory" means any facility or office in which clinical laboratory tests are performed.

(3) (a) "Clinical laboratory science practitioner" means a health care professional who performs clinical laboratory tests or who is engaged in management, education, consulting, or research in clinical laboratory science.

(b) The term includes laboratory directors, managers, supervisors, clinical laboratory scientists, clinical laboratory specialists, and clinical laboratory technicians who work in a laboratory.

(c) The term does not include:

(i) persons employed by a clinical laboratory to perform supportive functions not related to direct performance of laboratory tests; or

(ii) clinical laboratory trainees.

(4) "Clinical laboratory scientist" means a person who:

(a) performs clinical laboratory tests pursuant to established and approved protocols requiring the exercise of independent judgment and responsibility;

(b) maintains equipment and records;

(c) performs quality assurance activities related to test performance; and

(d) may supervise and teach within a clinical laboratory setting.

(5) "Clinical laboratory specialist" means a person who:

(a) performs laboratory testing in a specialized testing area, such as microbiology, chemistry, immunology, or hematology, according to approved protocols requiring the exercise of independent judgment and responsibility;

(b) maintains equipment and records;

(c) performs quality assurance activities related to test performance; and

(d) may supervise and teach within the specific area of the clinical laboratory.

(6) "Clinical laboratory technician" means a person who performs laboratory tests pursuant to established and approved protocols that require limited exercise of independent judgment and that are performed under the supervision of a clinical laboratory scientist, laboratory supervisor, or laboratory director.

(7) "Clinical laboratory test" or "laboratory test" means:

(a) a microbiological, serological, chemical, hematological, radiobioassay, cytological, biophysical, immunological, cytogenetical, or other examination that is performed on material derived from the human body; or

(b) any other test or procedure conducted by a laboratory or facility that provides information for the assessment of a medical condition or for the diagnosis, prevention, or treatment of a disease.

(8) "Department" means the department of labor and industry provided for in 2-15-1701.

(9) "License" means the clinical laboratory science license issued under this chapter.

(10) "Practice of clinical laboratory science" means the performance and interpretation of microbiological, serological, chemical, hematological, radiobioassay, cytological, biophysical, immunological, cytogenetical, or other examination on material that is derived from the human body and that provides information for the assessment of a medical condition or for the diagnosis, prevention, or treatment of a disease."

Section 11. Section 37-34-305, MCA, is amended to read:

"37-34-305. Licensure application procedures. ~~(1) An applicant shall submit an application for a license to the board and shall pay an application fee set by the board.~~

~~(2) Upon receipt of the application and fee, the~~ *The* department shall issue a license for a clinical laboratory scientist, a clinical laboratory specialist, or a clinical laboratory technician to any person who meets the qualifications specified by the board as set forth in rules adopted by the board pursuant to ~~37-34-201 and 37-34-303 for licensure.~~

Section 12. Repealer. The following sections of the Montana Code Annotated are repealed:

2-15-1738. Board of radiologic technologists.

2-15-1750. Board of respiratory care practitioners.

2-15-1753. Board of clinical laboratory science practitioners.

37-14-101. Purpose.

37-14-201. Compensation of board members -- meetings.

37-14-202. Rulemaking power.

37-14-307. Duty to carry or display license or permit.

37-14-308. Issuance of other documents.

37-14-311. Deposit of fees.

37-28-101. Findings -- purpose.

37-28-103. Board meetings -- procedure -- seal.

37-28-104. Board powers and duties.

37-28-305. Deposit of fees.

37-34-102. Declaration of policy and purpose.

37-34-201. Powers and duties of board -- rulemaking authority.

Section 13. Name change -- directions to code commissioner. Whenever a reference to one of the following boards appears in legislation enacted by the 2025 legislature, the code commissioner is directed to change it to a reference to the board of allied health care professionals:

- (1) board of clinical laboratory science practitioners;
- (2) board of radiologic technicians; or
- (3) board of respiratory care practitioners.

Section 14. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 17, and the provisions of Title 2, chapter 15, part 17, apply to [section 1].

(2) [Sections 2 through 4] are intended to be codified as a new chapter in Title 37, and the provisions of Title 37 apply to [sections 2 through 4].

Section 15. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 16. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 17. Effective date. [This act] is effective January 1, 2026.

Approved May 1, 2025

CHAPTER NO. 311

[HB 503]

AN ACT REVISING LAWS REGARDING FLEEING FROM OR ELUDING A PEACE OFFICER; CLASSIFYING MISDEMEANOR AND FELONY CONVICTIONS; PROVIDING PENALTIES; REORGANIZING PROVISIONS TO CONFORM TO THE PATTERN IN TITLE 61, CHAPTER 8; AND AMENDING SECTION 61-8-316, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Fleeing from or eluding peace officer. (1) Except as provided in subsections (2) and (3), a person convicted of or pleading guilty or no contest to an offense under 61-8-316 is guilty of a misdemeanor and shall be imprisoned for a term not to exceed 1 year or fined an amount not to exceed \$2,000, or both.

(2) A person convicted of the offense of aggravated fleeing from or eluding a peace officer under 61-8-316 is guilty of a felony and shall be imprisoned for a term not to exceed 5 years or fined an amount not to exceed \$5,000, or both.

(3) A person convicted of an offense of fleeing from or eluding a peace officer during which the person causes serious bodily injury to or the death of any other person is guilty of a felony and shall be imprisoned for a term not to exceed 10 years or fined an amount not to exceed \$10,000, or both.

Section 2. Section 61-8-316, MCA, is amended to read:

"61-8-316. Fleeing from or eluding peace officer. (1) A person operating a motor vehicle commits the offense of fleeing from or eluding a peace officer if a uniformed peace officer operating a police vehicle in the lawful performance of the peace officer's duty gives the person a visual or audible signal by hand, voice, emergency light, or siren directing the person to stop the motor vehicle and the person knowingly fails to obey the signal by *refusing*

to bring the motor vehicle to a stop, increasing the speed of the motor vehicle, continuing at a speed that is 10 or more miles an hour above the applicable speed limit, extinguishing the motor vehicle's lights, or otherwise fleeing from, eluding, or attempting to flee from or elude the peace officer.

~~(2) (a) Except as provided in subsection (2)(b), a person convicted of or pleading guilty or nolo contendere to an offense under subsection (1) shall be imprisoned for a term not to exceed 1 year or fined an amount not to exceed \$2,000, or both.~~

~~(b) A person convicted of an offense of fleeing from or eluding a peace officer during which the person causes serious bodily injury to or the death of any other person shall be imprisoned for a term not to exceed 10 years or fined an amount not to exceed \$10,000, or both.~~

~~(2) A person commits the offense of aggravated fleeing from or eluding a peace officer if:~~

~~(a) the person has previously been convicted of fleeing from or eluding a peace officer under this section; or~~

~~(b) in the course of fleeing from or eluding a peace officer, the person:~~

~~(i) exhibits reckless driving behavior as provided in 61-8-301, including intentionally steering the motor vehicle toward any other person;~~

~~(ii) causes property damage to the property of any other person in an amount exceeding \$5,000; or~~

~~(iii) leaves the state.~~

~~(3) A person who is convicted of or pleads guilty or no contest to a violation of this section is subject to the penalties provided in [section 1].”~~

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 61, chapter 8, part 7, and the provisions of Title 61, chapter 8, part 7, apply to [section 1].

Approved May 1, 2025

CHAPTER NO. 312

[HB 504]

AN ACT EXPANDING LIVESTOCK ELIGIBILITY UNDER THE LIVESTOCK LOSS MITIGATION PROGRAM TO INCLUDE DOMESTIC BISON; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 2-15-3112, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-3112, MCA, is amended to read:

“2-15-3112. Livestock loss mitigation program – definitions. The livestock loss board shall establish and administer a program to reimburse livestock producers for livestock losses caused by wolves, mountain lions, and grizzly bears, subject to the following provisions:

(1) The board shall establish eligibility requirements for reimbursement, which must provide that all Montana livestock producers are eligible for coverage for losses by wolves, mountain lions, and grizzly bears to cattle, domestic bison, swine, horses, mules, sheep, goats, llamas, and livestock guard dogs on state, federal, tribal, and private land.

(2) (a) Except as provided in subsection (2)(b), the board may reimburse confirmed and probable livestock losses at an amount not to exceed the fair market value of the livestock.

(b) The board may reimburse confirmed and probable livestock losses by paying a multiplier of the fair market value of the livestock based on a board-determined region.

(c) Before the board may issue a reimbursement for losses to a livestock producer eligible for coverage for losses, the department of revenue shall certify that the livestock producer has paid per capita fees as required by 15-24-921. Except for a tribal member or tribal entity participating in an authorized agreement pursuant to 2-15-3113, a livestock producer may not receive a reimbursement for losses until the producer has paid any delinquent per capita fees.

(3) Other losses may be reimbursed at rates determined by the board.

(4) A claim process must be established to be used when a livestock producer suffers a livestock loss for which wolves, mountain lions, or grizzly bears may be responsible. The claim process must set out a clear and concise method for documenting and processing claims for reimbursement for livestock losses.

(5) Names, addresses, and other personally identifiable information of claimants must remain confidential and may not be released.

(6) (a) A process must be established to allow livestock producers to appeal reimbursement decisions. A producer may appeal a staff adjuster's decision by notifying the staff adjuster and the board in writing, stating the reasons for the appeal and providing documentation supporting the appeal. If the documentation is incomplete, the board or a producer may consult with the U.S. department of agriculture wildlife services to complete the documentation.

(b) The board may not accept any appeal on the question of whether the loss was or was not a confirmed or probable loss because that final determination lies solely with the U.S. department of agriculture wildlife services and may not be changed by the board.

(c) The board shall hold a hearing on an appeal within 90 days of receipt of the written appeal, allowing the staff adjuster and the producer to present their positions. A decision must be rendered by the board within 30 days after the hearing. The producer must be notified in writing of the board's decision.

(7) As used in this section, the following definitions apply:

(a) "Confirmed" means reasonable physical evidence that livestock was actually attacked or killed by a wolf, mountain lion, or grizzly bear, including but not limited to the presence of bite marks indicative of the spacing of tooth punctures of wolves, mountain lions, or grizzly bears and associated subcutaneous hemorrhaging and tissue damage indicating that the attack occurred while the animal was alive, feeding patterns on the carcass, fresh tracks, scat, hair rubbed off on fences or brush, eyewitness accounts, or other physical evidence that allows a reasonable inference of wolf, mountain lion, or grizzly bear predation on an animal that has been largely consumed.

(b) "Fair market value" means:

(i) for commercial sheep more than 1 year old, the average price of sheep of similar age and sex paid at the most recent Billings livestock sale ring or other ring as determined by the board;

(ii) for commercial lambs, the average market weaning value;

(iii) for registered sheep, twice the average value of commercial sheep of the same age and sex;

(iv) for commercial cattle more than 1 year old, the average price of cattle of similar age and sex paid at the most recent Billings livestock sale ring or other ring as determined by the board;

(v) for commercial calves, the average market weaning value;

(vi) for registered cattle, twice the average value of commercial cattle of the same age and sex;

(vii)(vii) for other registered livestock, twice the average value of commercial-grade animals of the same breed, age, and sex; or

(viii)(viii) for *domestic bison and* other livestock, the average price paid at the most recent public auction for the type of animal lost or the replacement price as determined by the board.

(c) “Probable” means the presence of some evidence to suggest possible predation but a lack of sufficient evidence to clearly confirm predation by a particular species. A kill may be classified as probable depending on factors including but not limited to recent confirmed predation by the suspected depredating species in the same or a nearby area, recent observation of the livestock by the owner or the owner’s employees, and telemetry monitoring data, sightings, howling, or fresh tracks suggesting that the suspected depredating species may have been in the area when the depredation occurred.”

Section 2. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 3. Effective date. [This act] is effective July 1, 2025.

Approved May 1, 2025

CHAPTER NO. 313

[HB 509]

AN ACT GENERALLY REVISING THE QUALITY EDUCATOR LOAN ASSISTANCE PROGRAM; EXPANDING ELIGIBILITY FOR THE PROGRAM TO INCLUDE ALL NEWLY HIRED QUALITY EDUCATORS IN MONTANA PUBLIC SCHOOLS; PROVIDING THAT NEWLY HIRED QUALITY EDUCATORS IN IMPACTED SCHOOLS HAVE PRIORITY FOR RECEIVING LOAN ASSISTANCE PAYMENTS; PROVIDING A PROCESS TO PRORATE LOAN ASSISTANCE PAYMENTS IF THE APPROPRIATION IS INSUFFICIENT TO FULLY FUND THE LOAN ASSISTANCE PAYMENT FOR ALL ELIGIBLE QUALITY EDUCATORS; AMENDING SECTIONS 20-4-503, 20-4-504, AND 20-4-505, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-4-503, MCA, is amended to read:

“20-4-503. Critical quality educator shortages – impacted schools.

(1) The board of public education, in consultation with the office of public instruction, shall maintain and make publicly available a current list of impacted schools.

(2) A quality educator ~~working at an impacted school~~ is eligible for repayment of all or part of the quality educator’s outstanding educational loans existing at the time of application in accordance with the eligibility and award criteria established under this part. If a quality educator is eligible for loan assistance and remains employed in the same impacted school or another impacted school within the same school district, the quality educator remains eligible for a lifetime total of up to 3 years of state-funded loan repayment assistance and an additional 1 year of loan repayment assistance funded by the impacted school or the district under which the impacted school is operated pursuant to 20-4-504(2).”

Section 2. Section 20-4-504, MCA, is amended to read:

“20-4-504. Loan repayment assistance. (1) Loan repayment assistance may be provided on behalf of a quality educator who:

(a) is newly hired, *with priority given to a quality educator newly hired in an impacted school pursuant to 20-4-503*; and

(b) has an educational loan that is not in default and that has a minimum unpaid current balance of at least \$1,000 at the time of application.

(2) A quality educator is eligible for state-funded loan repayment assistance for a lifetime total of no more than 3 years and an additional 1 year of loan repayment assistance voluntarily funded by the **impacted** school or the district under which the **impacted** school is operated, with the maximum annual loan repayment assistance not to exceed:

(a) \$3,000 of state-funded loan repayment assistance after the first complete year of teaching in an **impacted school**;

(b) \$4,000 of state-funded loan repayment assistance after the second complete year of teaching in the same **impacted** school or another **impacted** school within the same school district;

(c) \$5,000 of state-funded loan repayment assistance after the third complete year of teaching in the same **impacted** school or another **impacted** school within the same school district; and

(d) up to \$5,000 of loan repayment assistance funded by the **impacted** school or the district under which the **impacted** school is operated after the fourth complete year of teaching in the same **impacted** school or another **impacted** school within the same school district.

(3) If the funding for state-funded loan repayment assistance in any year is less than the total amount for which Montana quality educators qualify, the superintendent of public instruction shall prorate repayment assistance amounts **accordingly as follows**:

(a) The superintendent of public instruction shall prioritize repayment for quality educators working at impacted schools first. If there are funds remaining after allocating amounts to fully fund quality educators working in impacted schools pursuant to subsection (2), the superintendent of public instruction may award the remaining funds to quality educators who are working in schools that are not impacted schools and prorate the remaining funds if necessary. If the appropriated funds are insufficient to fully fund the amounts required for quality educators working in impacted schools, the superintendent of public instruction shall prorate the amounts as provided in subsection (3)(b).

(b) If the repayment assistance amount is insufficient to provide a full award to quality educators working in impacted schools, the superintendent of public instruction shall prorate the repayment assistance amount among only the quality educators working in impacted schools.”

Section 3. Section 20-4-505, MCA, is amended to read:

“20-4-505. Loan repayment assistance documentation. (1) A quality educator shall submit an application for loan repayment assistance to the superintendent of public instruction in accordance with policies and procedures adopted by the superintendent of public instruction. The application must include official verification or proof of the applicant’s total unpaid accumulated educational loan debt and other documentation required by the superintendent of public instruction that is necessary for verification of the applicant’s eligibility.

(2) The superintendent of public instruction may require a quality educator who is eligible for loan repayment assistance to provide documentation that the quality educator has exhausted repayment assistance from other federal, state, or local loan forgiveness, discharge, or repayment incentive programs.

(3) The superintendent of public instruction may remit payment of the loan on behalf of the quality educator in accordance with the requirements of this part and policies and procedures adopted by the superintendent of public instruction.

(4) ~~An impacted A school or a school district under which an impacted school is operated~~ may remit payment of the loan on behalf of a quality educator eligible for loan repayment assistance under this section in accordance with 20-4-504.”

Section 4. Effective date. [This act] is effective July 1, 2025.

Section 5. Applicability. [This act] applies to applications for loan repayment assistance submitted on or after July 1, 2025.

Approved May 4, 2025

CHAPTER NO. 314

[HB 520]

AN ACT CLARIFYING THAT PROHIBITIONS ON CONVEYING FAMILY TRANSFER PARCELS DO NOT APPLY TO CONVEYANCES INVOLVING LENDERS; AND AMENDING SECTION 76-3-207, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-3-207, MCA, is amended to read:

“76-3-207. Divisions or aggregations of land exempted from review but subject to survey requirements and zoning regulations – exceptions – fees for examination of division. (1) Except as provided in subsection (2), unless the method of disposition is adopted for the purpose of evading this chapter, the following divisions or aggregations of tracts of record of any size, regardless of the resulting size of any lot created by the division or aggregation, are not subdivisions under this chapter but are subject to the surveying requirements of 76-3-401 for divisions or aggregations of land other than subdivisions and are subject to applicable zoning regulations adopted under Title 76, chapter 2:

(a) divisions made outside of platted subdivisions for the purpose of relocating common boundary lines between adjoining properties;

(b) divisions made outside of platted subdivisions for the purpose of a single gift or sale in each county to each member of the landowner’s immediate family;

(c) divisions made outside of platted subdivisions by gift, sale, or agreement to buy and sell in which the landowner enters into a covenant for the purposes of this chapter with the governing body that runs with the land and provides that the divided land will be used exclusively for agricultural purposes, subject to the provisions of 76-3-211;

(d) for five or fewer lots within a platted subdivision, the relocation of common boundaries;

(e) divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

(f) aggregation of parcels or lots when a certificate of survey or subdivision plat shows that the boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel are established. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

(2) Notwithstanding the provisions of subsection (1):

(a) within a platted subdivision filed with the county clerk and recorder, a division, redesign, or rearrangement of lots that results in an increase in the number of lots or that redesigns or rearranges six or more lots must be reviewed and approved by the governing body before an amended plat may be filed with the county clerk and recorder;

(b) (i) a division within a platted subdivision is exempt from additional subdivision reviews and is subject to applicable zoning regulations adopted under Title 76, chapter 2, unless the method of disposition is adopted for the purpose of evading this chapter, if the division:

(A) is within a subdivision that has been approved by a local governing body;

(B) creates parcels of a size allowed within the subdivision; and

(C) is gifted or sold to a member of the landowner's immediate family;

(ii) an amended plat must be filed with the county clerk and recorder after a division provided in subsection (2)(b)(i) occurs; and

(iii) except as otherwise provided in this subsection (2)(b), a restriction or requirement on the platted subdivision continues to apply to a division allowed in subsection (2)(b)(i);

(c) a division of land exempted under subsection (1)(b) that is also located in a zoning district is allowed if each family transfer parcel created by the division is at least 5 acres, unless the zoning district allows for smaller lot sizes; and

(d) a division of land transferred to an immediate family member pursuant to subsection (1)(b) or (1)(c) may be transferred regardless of age and may be owned jointly with that immediate family member's spouse.

(3) (a) Subject to subsection (3)(b), a division of land may not be made under this section unless the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid.

(b) (i) If a division of land includes centrally assessed property and the property taxes applicable to the division of land are not specifically identified in the tax assessment, the department of revenue shall prorate the taxes applicable to the land being divided on a reasonable basis. The owner of the centrally assessed property shall ensure that the prorated real property taxes and special assessments are paid on the land being sold before the division of land is made.

(ii) The county treasurer may accept the amount of the tax prorated pursuant to this subsection (3)(b) as a partial payment of the total tax that is due.

(4) The governing body:

(a) may examine a division or aggregation of land to determine whether or not the requirements of this chapter apply to the division or aggregation;

(b) may establish reasonable fees, not to exceed \$400, for the examination;

(c) shall complete the examination and approve or deny the application for a division or aggregation of land under this section within 20 working days of the receipt of an application containing all materials and information required by the governing body to conduct its review under regulations adopted pursuant to 76-3-504(1)(p); and

(d) may not impose conditions on the approval of a division or aggregation of land under this section except for conditions necessary to ensure compliance with the survey requirements of Title 76, chapter 3, part 4.

(5) (a) An immediate family member or the spouse of an immediate family member who receives a division of land pursuant to subsection (1)(b) or (2)(b) may not transfer or otherwise convey the division of land for a period of up to

2 years after the date of the division unless the governing body sets a period of less than 2 years.

(b) This subsection (5) does not preclude the recipient of a division of land pursuant to subsection (1)(b) or (2)(b) from conveying an interest in the land under a mortgage or trust indenture for the purpose of securing an obligation owed to another person or entity.

(c) The restriction in subsection (5)(a) does not apply to a transfer or conveyance of the land pursuant to a foreclosure sale or by deed in lieu of foreclosure. The restriction on transferring the land under subsection (5)(a) does not apply to a person or entity who acquires title to the division of land by purchase at a foreclosure sale or by deed in lieu of foreclosure. A person or entity who acquires title to the land by purchase at a foreclosure sale or by deed in lieu of foreclosure may freely transfer or convey the land.

(d) A governing body may authorize variances from these requirements to address hardship situations.

(6) (a) If a governing body can prove by documented evidence in a court of competent jurisdiction that a person has knowingly evaded subdivision regulations through the use of a division of land pursuant to subsection (1)(b) or (2)(b), that person is subject to a civil penalty of \$5,000 for each division of land, payable to the governing body.

(b) The governing body may not:

(i) impose a civil liability on the person or entity to whom the division of land or security interest in the land was conveyed pursuant to subsection (5)(b) or (5)(c);

(ii) impair or affect the validity or priority of a security interest in the division of land conveyed pursuant to subsection (5)(b); or

(iii) prohibit or impair the use of, the conveyance of an interest in, or the transfer of a division of land by a person or entity who acquires the division of land pursuant to subsection (5)(c)."

Approved May 1, 2025

CHAPTER NO. 315

[HB 521]

AN ACT PROVIDING THAT A PERSON CONVICTED OF A CRIME WHO IS INJURED DURING THE COMMISSION OF THE CRIME HAS NO RIGHT OF ACTION.

Be it enacted by the Legislature of the State of Montana:

Section 1. Person convicted of crime – no right of action for injuries and damages. A person who is convicted of a crime and is injured or suffers other damages during the commission of the crime does not have a right of action to recover damages if a victim causing the injury or damages did not use any force or used justifiable force, as defined in Title 45, chapter 3, part 1.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 27, chapter 1, part 5, and the provisions of Title 27, chapter 1, part 5, apply to [section 1].

Approved May 1, 2025

CHAPTER NO. 316

[HB 523]

AN ACT PROVIDING FOR THE DISPOSITION OF ABANDONED LOTS IN PUBLIC CEMETERIES; PROVIDING REQUIREMENTS FOR ABANDONMENT; PROVIDING A PETITION PROCESS FOR A FINDING OF ABANDONMENT; REQUIRING PUBLIC NOTICE; PROVIDING EXCEPTIONS; AND PROVIDING DEFINITIONS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Abandoned public cemetery lots – petition – public notice – exceptions – definitions. (1) A lot in a public cemetery may be considered abandoned when:

(a) the lot has not been used for the purposes of interment for 75 years or more; and

(b) the cemetery administrator has had no contact with the owner or the owner's heirs for 75 years or more.

(2) An individual may petition the cemetery administrator for a finding of abandonment. The petition must include:

(a) the full name, address, and contact information for the petitioner;

(b) a description of the lot that the petitioner believes to be abandoned;

(c) a statement that the petitioner has diligently attempted to find the owner, heirs, or assignees of the lot, including a description of the efforts undertaken;

(d) a request that the cemetery administrator determine that the lot is abandoned;

(e) a request that the petitioner be allowed to purchase the lot on a finding of abandonment;

(f) if the petition is for a plot containing multiple lots, the name and date of death of the last individual buried in the plot; and

(g) an affirmation of the truth of the statements in the petition, which includes the language found in 1-6-105 or a notarized oath.

(3) On receipt of a petition, the cemetery administrator shall publish a notice or order the petitioner to publish a notice as provided in 7-1-4127 if the cemetery is owned by a municipality or as provided in 7-1-2121 if the cemetery is owned by any other local government unit. The notice must include:

(a) a statement that there has been a petition to determine that a certain lot has been abandoned in the specified cemetery;

(b) a reasonable description of where the specified lot is located;

(c) the full name of the recorded owner of the lot and the nearest estimate of the date when the lot was purchased. The date may be an approximate year or range if the records do not give an exact date.

(d) a statement that anyone who believes that they are entitled to legal ownership of the lot shall contact the cemetery administrator by the last date of publication of the notice;

(e) the last date of publication of the notice; and

(f) a phone number and address for the cemetery administrator.

(4) The petitioner shall provide an affidavit of publication to the cemetery administrator after the last date of publication of the notice. If publication was enacted by the cemetery administrator, then the cemetery administrator shall execute an affidavit of publication.

(5) If no owner, heir, or assignee has contacted the cemetery administrator to claim the lot after receipt and execution of the affidavit of publication, the lot must be considered legally abandoned. The cemetery administrator shall

approve the petition submitted pursuant to subsection (2) and set a price for the petitioner to purchase the lot. A copy of the instrument of conveyance must be filed in the office of the county clerk and recorder for the county in which a majority of the cemetery is located.

(6) If an owner, heir, or assignee contacts the cemetery administrator to claim the lot, the cemetery administrator shall determine whether ownership is valid or not. If the claim is not valid, then the cemetery administrator may proceed as prescribed in subsection (5).

(7) This section does not apply to lots in a public cemetery designated for veteran burials.

(8) This section does not apply to lots in a public cemetery that the cemetery administrator has determined contain buried human remains, even if there is no cemetery lot marker.

(9) This section does not apply to privately owned cemeteries, although privately owned cemeteries may choose to adopt the procedures set forth in this section.

(10) For the purposes of this section, the following definitions apply:

(a) "Cemetery administrator" means a government entity, a secretary, an appointed individual, or a board, including a board of trustees, that is responsible for administering a public cemetery.

(b) "Plot" means an area of land within a public cemetery that includes multiple burial lots.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 7, chapter 35, and the provisions of Title 7, chapter 35, apply to [section 1].

Approved May 1, 2025

CHAPTER NO. 317

[HB 530]

AN ACT GENERALLY REVISING BUSINESS LAWS; ALLOWING FOR DOMESTICATION OF LIMITED LIABILITY COMPANIES, PROFESSIONAL LIMITED LIABILITY COMPANIES, LIMITED LIABILITY PARTNERSHIPS, PROFESSIONAL LIMITED LIABILITY PARTNERSHIPS, BENEFIT CORPORATIONS, AND NONPROFIT CORPORATIONS; PROVIDING FOR A PLAN OF DOMESTICATION; PROVIDING FOR APPROVAL OF DOMESTICATION; PROVIDING FOR AMENDMENT OR ABANDONMENT OF A PLAN FOR DOMESTICATION; PROVIDING FOR ARTICLES OF DOMESTICATION; PROVIDING DEFINITIONS; PROVIDING FOR NONEXCLUSIVITY; AND PROVIDING FOR REFERENCES TO EXTERNAL FACTS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 9], the following definitions apply:

(1) "Domestic", with respect to an entity, means governed as to its internal affairs by the law of this state.

(2) "Domesticated entity" means the domesticating entity as it continues in existence after a domestication.

(3) "Domesticating entity" means the domestic entity that approves a plan of domestication pursuant to [section 3] or the foreign entity that approves a domestication pursuant to the law of its jurisdiction of formation.

(4) “Domestication” means a transaction authorized by [section 2].

(5) “Entity” means a limited liability company, professional limited liability company, general partnership, limited liability partnership, professional limited liability partnership, limited partnership, limited liability limited partnership, benefit corporation, or nonprofit corporation.

(6) “Filing entity” means an entity whose formation requires the filing of a public organic record. The term does not include a limited liability partnership.

(7) “Foreign”, with respect to an entity, means governed as to its internal affairs by the law of a jurisdiction other than this state.

(8) “Interest” means:

(a) a membership interest in a benefit corporation or a nonprofit corporation; and

(b) interest as defined in 35-14-140 for any other entity.

(9) “Interest holder” means a person who holds of record an interest.

(10) “Interest holder liability” has the same meaning as provided in 35-14-140.

(11) “Jurisdiction”, used to refer to a political entity, means the United States, a state, a tribal government, a foreign country, or a political subdivision of a foreign country.

(12) “Organic rules” means the public organic record and private organic rules of a domestic or foreign entity.

(13) “Organic law” means the statute governing the internal affairs of a domestic or foreign entity.

(14) “Plan of domestication” means a plan under [section 3].

(14) “Private organic rules” has the same meaning as provided in 35-14-140.

(16) “Public organic record” has the same meaning as provided in 35-14-140.

(17) “Record”, used as a noun, means information that is inscribed on a tangible medium that is stored in an electronic or other medium and is retrievable in perceivable form.

(18) “Registered foreign entity” means a foreign entity that is registered to do business in this state pursuant to the applicable organic laws of this state.

(19) “Type of entity” has the same meaning as provided in 35-14-140.

Section 2. Domestication authorized. (1) By complying with [sections 1 through 9], a domestic entity may become a domestic entity of the same type of entity in a foreign jurisdiction if the domestication is authorized by the law of the foreign jurisdiction.

(2) By complying with the provisions of [sections 1 through 9] applicable to foreign entities, a foreign entity may become a domestic entity of the same type of entity in this state if the domestication is authorized by the law of the foreign entity’s jurisdiction of formation.

Section 3. Plan of domestication. (1) A domestic entity may become a foreign entity in a domestication by approving a plan of domestication. The plan must be in a record and must contain:

(a) the name and type of entity of the domesticating entity;

(b) the name and jurisdiction of formation of the domesticated entity;

(c) the manner of converting the interests in the domesticating entity into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of these;

(d) the proposed public organic record of the domesticated entity if it is a filing entity;

(e) the full text of the private organic rules of the domesticated entity that are proposed to be in a record;

(f) the other terms and conditions of the domestication; and

(g) any other provision required by the law of this state or the organic rules of the domesticating entity.

(2) In addition to the requirements of subsection (1), a plan of domestication may contain any other provision not prohibited by law.

Section 4. Approval of domestication. (1) A plan of domestication is not effective unless it has been approved:

(a) by a domestic domesticating entity:

(i) in accordance with the requirements, if any, in its organic rules for approval of a domestication;

(ii) if its organic rules do not provide for approval of a domestication, in accordance with the requirements, if any, in its organic law and organic rules for approval of a merger, as if the domestication were a merger; or

(iii) by all of the interest holders of the entity entitled to vote on or consent to any matter if its organic law or organic rules do not provide for approval of a domestication or a merger; and

(b) in a record, by each interest holder of a domestic domesticating entity that will have interest holder liability for debts, obligations, and other liabilities that arise after the domestication becomes effective, unless the entity is not a nonprofit corporation for which:

(i) the organic rules of the entity in a record provide for the approval of a domestication in which some or all of its interest holders become subject to interest holder liability by the vote or consent of fewer than all of the interest holders; and

(ii) the interest holder consented in a record to or voted for that provision of the organic rules or became an interest holder after the adoption of that provision.

(2) A domestication of a foreign domesticating entity is not effective unless it is approved in accordance with the law of the foreign entity's jurisdiction of formation.

Section 5. Amendment or abandonment of plan of domestication.

(1) A plan of domestication of a domestic domesticating entity may be amended:

(a) in the same manner as the plan was approved if the plan does not provide for the manner in which it may be amended; or

(b) by its interest holders in the manner provided in the plan, except that an interest holder that was entitled to vote on or consent to approval of the domestication is entitled to vote on or consent to any amendment of the plan that will change:

(i) the amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of these to be received by any of the interest holders of the domesticating entity under the plan;

(ii) the public organic record, if any, or private organic rules of the domesticated entity that will be in effect immediately after the domestication becomes effective, except for changes that do not require approval of the interest holders of the domesticated entity under its organic law or organic rules; or

(iii) any other terms or conditions of the plan if the change would adversely affect the interest holder in any material respect.

(2) After a plan of domestication has been approved by a domestic domesticating entity and before articles of domestication become effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic domesticating entity may abandon the plan in the same manner as the plan was approved.

(3) If a plan of domestication is abandoned after articles of domestication have been delivered to the secretary of state for filing and before the articles of domestication become effective, articles of abandonment, signed by the entity, must be delivered to the secretary of state for filing before the articles of domestication becomes effective. The articles of abandonment take effect on filing, and the domestication is abandoned and does not become effective. The articles of abandonment must contain:

- (a) the name of the domesticating entity;
- (b) the date on which the articles of domestication were filed by the secretary of state; and
- (c) a statement that the domestication has been abandoned in accordance with this section.

Section 6. Articles of domestication -- effective date of domestication. (1) Articles of domestication must be signed by the domesticating entity and delivered to the secretary of state for filing.

(2) Articles of domestication must contain:

- (a) the name, jurisdiction of formation, and type of entity of the domesticating entity;
- (b) the name and jurisdiction of formation of the domesticated entity;
- (c) if the articles of domestication are not to be effective upon filing, the later date and time on which they will become effective, which may not be more than 90 days after the date of filing;
- (d) if the domesticating entity is a domestic entity, a statement that the plan of domestication was approved in accordance with [sections 1 through 9] or, if the domesticating entity is a foreign entity, a statement that the domestication was approved in accordance with the law of its jurisdiction of formation;
- (e) if the domesticated entity is a domestic filing entity, its public organic record as an attachment;
- (f) if the domesticated entity is a domestic limited liability partnership, its application for registration of a limited liability partnership as an attachment; and
- (g) if the domesticated entity is a foreign entity that is not a registered foreign entity, a statement designating a registered agent.

(3) In addition to the requirements of subsection (2), articles of domestication may contain any other provision not prohibited by law.

(4) If the domesticated entity is a domestic entity, its public organic record, if any, must satisfy the requirements of the law of this state, but the public organic record does not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic record.

(5) A plan of domestication that is signed by a domesticating domestic entity and meets all of the requirements of subsection (2) may be delivered to the secretary of state for filing instead of articles of domestication and upon filing has the same effect. If a plan of domestication is filed as provided in this subsection, references in this chapter to articles of domestication refer to the plan of domestication filed under this subsection.

(6) Articles of domestication are effective on the date and time of filing or the later date and time specified in the articles of domestication.

(7) A domestication in which the domesticated entity is a domestic entity is effective when the articles of domestication are effective. A domestication in which the domesticated entity is a foreign entity is effective on the later of:

- (a) the date and time provided by the organic law of the domesticated entity; or
- (b) when the articles of domestication are effective.

Section 7. Effect of domestication. (1) When a domestication becomes effective:

- (a) the domesticated entity:
 - (i) is organized under and subject to the organic law of the domesticated entity; and
 - (ii) is the same entity without interruption as the domesticating entity;
 - (b) all property of the domesticating entity continues to be vested in the domesticated entity without transfer, reversion, or impairment;
 - (c) all debts, obligations, and other liabilities of the domesticating entity continue as debts, obligations, and other liabilities of the domesticated entity;
 - (d) except as otherwise provided by law or by the plan of domestication, all of the rights, privileges, immunities, powers, and purposes of the domesticating entity remain in the domesticated entity;
 - (e) the name of the domesticated entity may be substituted for the name of the domesticating entity in any pending action or proceeding;
 - (f) if the domesticated entity is a filing entity, its public organic record is effective;
 - (g) the private organic rules of the domesticated entity that are to be in a record, if any, approved as part of the plan of domestication are effective; and
 - (h) the interests in the domesticating entity are converted to the extent of and as approved in connection with the domestication and the domesticating entity's organic law. The interest holders of the domesticating entity are entitled only to the rights provided to them under the plan of domestication and to any appraisal rights they may have under the organic laws of the domesticating entity and any contractual appraisal rights they may have under the organic rules of the domesticating entity.
- (2) Except as otherwise provided in the organic law or organic rules of the domesticating entity, the domestication does not give rise to any rights that an interest holder or third party would have following a dissolution, liquidation, or winding up of the domesticating entity.
- (3) When a domestication becomes effective, a person that did not have interest holder liability with respect to the domesticating entity and becomes subject to interest holder liability with respect to a domestic entity as a result of the domestication has interest holder liability only to the extent provided by the organic law of the entity and only for those debts, obligations, and other liabilities that arise after the domestication becomes effective.
- (4) When a domestication becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic domesticating entity with respect to which the person had interest holder liability is subject to the following rules:
- (a) The domestication does not discharge any interest holder liability under the organic law of the domesticating domestic entity to the extent the interest holder liability arose before the domestication became effective.
 - (b) A person does not have interest holder liability under the organic law of the domestic domesticating entity for any debt, obligation, or other liability that arises after the domestication becomes effective.
 - (c) The organic law of the domestic domesticating entity continues to apply to the release, collection, or discharge of any interest holder liability preserved under subsection (4)(a) as if the domestication had not occurred.
 - (d) A person has whatever rights of contribution from any other person as are provided by other law or the organic rules of the domestic domesticating entity with respect to any interest holder liability preserved under subsection (4)(a) as if the domestication had not occurred.

(5) When a domestication becomes effective, a foreign entity that is the domesticated entity may be served with process in this state for the collection and enforcement of any of its debts, obligations, and other liabilities in accordance with applicable law.

(6) If a domesticating entity is a registered foreign entity, the registration of the domesticating entity to do business in this state is canceled when the domestication becomes effective.

(7) A domestication does not require the entity to wind up its affairs and does not constitute or cause the dissolution of the entity.

Section 8. Nonexclusivity. A transaction under [sections 1 through 9] that produces a certain result may not preclude the same result from being accomplished in any other manner permitted by law other than in [sections 1 through 9].

Section 9. Reference to external facts. A plan of domestication may refer to facts ascertainable outside the plan if the manner in which the facts will operate upon the plan is specified in the plan. The facts may include the occurrence of an event or a determination or action by a person, whether or not the event, determination, or action is within the control of a party to the transaction.

Section 10. Codification instruction. [Sections 1 through 9] are intended to be codified as a new part in Title 35, chapter 8, and the provisions of Title 35, chapter 8, apply to [sections 1 through 9].

Approved May 1, 2025

CHAPTER NO. 318

[HB 531]

AN ACT PROVIDING THAT THE LEGISLATURE HAS THE SOLE CONSTITUTIONAL AUTHORITY REGARDING RULES THAT GOVERN THE LEGISLATURE'S PROCEEDINGS; PROHIBITING THE JUDICIAL BRANCH FROM REVIEWING AND INTERPRETING LEGISLATIVE RULES; PROVIDING A DEFINITION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Sole constitutional authority by legislature on rules governing its proceedings – judicial review and interpretation prohibited – exception. (1) Except as provided in subsection (2), pursuant to Article V, section 10(1), of the Montana constitution, the legislature possesses the sole power and discretion to make, enforce, interpret, suspend, repeal, or waive rules for its proceedings.

(2) A judicial officer may not review and interpret a legislative rule unless the rule conflicts with the Montana constitution or the United States constitution.

(3) For the purposes of this section, “judicial officer” has the same meaning as provided in 1-1-202(2).

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 5, chapter 5, and the provisions of Title 5, chapter 5, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 319

[HB 544]

AN ACT GENERALLY REVISING HEALTH UTILIZATION REVIEW LAWS; PROHIBITING RETROACTIVE DENIALS UNDER CERTAIN CIRCUMSTANCES; PROVIDING BIOLOGIC PRESCRIPTIONS FOR MINORS; APPLYING TO CERTAIN ENTITIES; AMENDING SECTION 2-18-704, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Retroactive denials prohibited. When prior approval for a covered service is required and obtained by or on behalf of a covered person and the covered person undergoes the covered service, the approval is final and the health insurance issuer may not rescind approval after the covered service has been provided. This section does not apply to cases of fraud, misrepresentation, nonpayment of premium, exhaustion of benefits, if the covered person for whom the prior approval was granted is not covered when the service was provided, or if the covered service provided was not the same covered service that received prior approval, unless it was necessary and incidental.

Section 2. Biologic prescriptions for minors. (1) Biologic therapies may be prescribed by a treating provider for individuals under 18 years of age as provided in this section. The biologic therapies must meet the following requirements:

(a) the biologic therapies must be approved by the U.S. food and drug administration for use on adults, but need not be approved for use on persons under 18 years of age; and

(b) the biologic therapies must be medically necessary, covered benefits and supported by medical literature in at least two peer-reviewed journals demonstrating that the off-label use is both safe and effective for use on persons in the following comparable phases of life age ranges:

(i) infancy, between birth and 2 years of age;

(ii) childhood, from 2 to 12 years of age; and

(iii) adolescence, from 12 to 18 years of age.

(2) Upon receipt of the request for prior authorization and medical records supporting the request and the literature described in section (1)(b), an entity covered under the provisions of this chapter performing a utilization review must approve or deny a request for prior authorization for biologic therapies under subsection (1) in the time frame set forth in this chapter.

(3) For the purposes of this section, the term “biologic therapies” means a treatment that uses substances made from living organisms to treat disease. These substances may be made in a laboratory or occur naturally in the body.

Section 3. Section 2-18-704, MCA, is amended to read:

“2-18-704. Mandatory provisions. (1) An insurance contract or plan issued under this part must contain provisions that permit:

(a) the member of a group who retires from active service under the appropriate retirement provisions of a defined benefit plan provided by law or, in the case of the defined contribution plan provided in Title 19, chapter 3, part 21, a member with at least 5 years of service and who is at least age 50 while in covered employment to remain a member of the group until the member becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, unless the member is a participant in another group plan with substantially the same or greater benefits at an equivalent

cost or unless the member is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost;

(b) the surviving spouse of a member to remain a member of the group as long as the spouse is eligible for retirement benefits accrued by the deceased member as provided by law unless the spouse is eligible for medicare under the federal Health Insurance for the Aged Act or unless the spouse has or is eligible for equivalent insurance coverage as provided in subsection (1)(a);

(c) the surviving children of a member to remain members of the group as long as they are eligible for retirement benefits accrued by the deceased member as provided by law unless they have equivalent coverage as provided in subsection (1)(a) or are eligible for insurance coverage by virtue of the employment of a surviving parent or legal guardian.

(2) An insurance contract or plan issued under this part must contain the provisions of subsection (1) for remaining a member of the group and also must permit:

(a) the spouse of a retired member the same rights as a surviving spouse under subsection (1)(b);

(b) the spouse of a retiring member to convert a group policy as provided in 33-22-508; and

(c) continued membership in the group by anyone eligible under the provisions of this section, notwithstanding the person's eligibility for medicare under the federal Health Insurance for the Aged Act.

(3) (a) A state insurance contract or plan must contain provisions that permit a legislator to remain a member of the state's group plan until the legislator becomes eligible for medicare under the federal Health Insurance for the Aged Act if the legislator:

(i) terminates service in the legislature and is a vested member of a state retirement system provided by law; and

(ii) notifies the department of administration in writing within 90 days of the end of the legislator's legislative term.

(b) A former legislator may not remain a member of the group plan under the provisions of subsection (3)(a) if the person:

(i) is a member of a plan with substantially the same or greater benefits at an equivalent cost; or

(ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost.

(c) A legislator who remains a member of the group under the provisions of subsection (3)(a) and subsequently terminates membership may not rejoin the group plan unless the person again serves as a legislator.

(4) (a) A state insurance contract or plan must contain provisions that permit continued membership in the state's group plan by a member of the judges' retirement system who leaves judicial office but continues to be an inactive vested member of the judges' retirement system as provided by 19-5-301. The judge shall notify the department of administration in writing within 90 days of the end of the judge's judicial service of the judge's choice to continue membership in the group plan.

(b) A former judge may not remain a member of the group plan under the provisions of this subsection (4) if the person:

(i) is a member of a plan with substantially the same or greater benefits at an equivalent cost;

(ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost; or

(iii) becomes eligible for medicare under the federal Health Insurance for the Aged Act.

(c) A judge who remains a member of the group under the provisions of this subsection (4) and subsequently terminates membership may not rejoin the group plan unless the person again serves in a position covered by the state's group plan.

(5) A person electing to remain a member of the group under subsection (1), (2), (3), or (4) shall pay the full premium for coverage and for that of the person's covered dependents.

(6) An insurance contract or plan issued under this part that provides for the dispensing of prescription drugs by an out-of-state mail service pharmacy, as defined in 37-7-702:

(a) must permit any member of a group to obtain prescription drugs from a pharmacy located in Montana that is willing to match the price charged to the group or plan and to meet all terms and conditions, including the same professional requirements that are met by the mail service pharmacy for a drug, without financial penalty to the member; and

(b) may only be with an out-of-state mail service pharmacy that is registered with the board under Title 37, chapter 7, part 7, and that is registered in this state as a foreign corporation.

(7) An insurance contract or plan issued under this part must include coverage for:

(a) treatment of inborn errors of metabolism, as provided for in 33-22-131;

(b) therapies for Down syndrome, as provided in 33-22-139;

(c) treatment for children with hearing loss as provided in 33-22-128(1) and (2);

(d) fertility preservation services as required under 33-22-2103;

(e) the care and treatment of mental illness in accordance with the provisions of Title 33, chapter 22, part 7;

(f) telehealth services, as provided for in 33-22-138; and

(g) refills of prescription eyedrops as provided in 33-22-154.

(8) (a) An insurance contract or plan issued under this part that provides coverage for an individual in a member's family must provide coverage for well-child care for children from the moment of birth through 7 years of age. Benefits provided under this coverage are exempt from any deductible provision that may be in force in the contract or plan.

(b) Coverage for well-child care under subsection (8)(a) must include:

(i) a history, physical examination, developmental assessment, anticipatory guidance, and laboratory tests, according to the schedule of visits adopted under the early and periodic screening, diagnosis, and treatment services program provided for in 53-6-101; and

(ii) routine immunizations according to the schedule for immunization recommended by the advisory committee on immunization practices of the U.S. department of health and human services.

(c) Minimum benefits may be limited to one visit payable to one provider for all of the services provided at each visit as provided for in this subsection (8).

(d) For purposes of this subsection (8):

(i) "developmental assessment" and "anticipatory guidance" mean the services described in the Guidelines for Health Supervision II, published by the American academy of pediatrics; and

(ii) “well-child care” means the services described in subsection (8)(b) and delivered by a physician or a health care professional supervised by a physician.

(9) Upon renewal, an insurance contract or plan issued under this part under which coverage of a dependent terminates at a specified age must continue to provide coverage for any dependent, as defined in the insurance contract or plan, until the dependent reaches 26 years of age. For insurance contracts or plans issued under this part, the premium charged for the additional coverage of a dependent, as defined in the insurance contract or plan, may be required to be paid by the insured and not by the employer.

(10) Prior to issuance of an insurance contract or plan under this part, written informational materials describing the contract’s or plan’s cancer screening coverages must be provided to a prospective group or plan member.

(11) The state employee group benefit plans and the Montana university system group benefits plans must provide coverage for hospital inpatient care for a period of time as is determined by the attending physician and, in the case of a health maintenance organization, the primary care physician, in consultation with the patient to be medically necessary following a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer.

(12) (a) (i) The state employee group benefit plans and the Montana university system group benefits plans must provide coverage for medically necessary and prescribed outpatient self-management training and education for the treatment of diabetes. Any education must be provided by a licensed health care professional with expertise in diabetes. At a minimum, the benefit must consist of:

(A) 20 visits of training and education in diabetes self-management provided in either an individual or group setting if the person has not received the training and education previously; and

(B) 12 visits of followup diabetes self-management training and education services in subsequent years for an insured who has previously received and exhausted the initial 20 visits of education.

(ii) For the purposes of this subsection (12)(a), the term “visit” refers to a period of 30 minutes.

(b) The state employee group benefit plans and the Montana university system group benefits plans must provide coverage for diabetic equipment and supplies that at a minimum includes insulin, syringes, injection aids, devices for self-monitoring of glucose levels (including those for the visually impaired), test strips, visual reading and urine test strips, one insulin pump for each warranty period, accessories to insulin pumps, one prescriptive oral agent for controlling blood sugar levels for each class of drug approved by the United States food and drug administration, and glucagon emergency kits.

(c) Nothing in subsection (12)(a) or (12)(b) prohibits the state or the Montana university group benefit plans from providing a greater benefit or an alternative benefit of substantially equal value, in which case subsection (12)(a) or (12)(b), as appropriate, does not apply.

(d) Annual copayment and deductible provisions are subject to the same terms and conditions applicable to all other covered benefits within a given policy.

(e) This subsection (12) does not apply to disability income, hospital indemnity, medicare supplement, accident-only, vision, dental, specific disease, or long-term care policies offered by the state or the Montana university system as benefits to employees, retirees, and their dependents.

(13) (a) Except as provided in subsection (16), the state employee group benefit plans and the Montana university system group benefits plans that provide coverage to the spouse or dependents of a peace officer as defined

in 45-2-101, a game warden as defined in 19-8-101, a firefighter as defined in 19-13-104, or a volunteer firefighter as defined in 19-17-102 shall renew the coverage of the spouse or dependents if the peace officer, game warden, firefighter, or volunteer firefighter dies within the course and scope of employment. Except as provided in subsection (13)(b), the continuation of the coverage is at the option of the spouse or dependents. Renewals of coverage under this section must provide for the same level of benefits as is available to other members of the group. Premiums charged to a spouse or dependent under this section must be the same as premiums charged to other similarly situated members of the group. Dependent special enrollment must be allowed under the terms of the insurance contract or plan. The provisions of this subsection (13)(a) are applicable to a spouse or dependent who is insured under a COBRA continuation provision.

(b) The state employee group benefit plans and the Montana university system group benefits plans subject to the provisions of subsection (13)(a) may discontinue or not renew the coverage of a spouse or dependent only if:

(i) the spouse or dependent has failed to pay premiums or contributions in accordance with the terms of the state employee group benefit plans and the Montana university system group benefits plans or if the plans have not received timely premium payments;

(ii) the spouse or dependent has performed an act or practice that constitutes fraud or has made an intentional misrepresentation of a material fact under the terms of the coverage; or

(iii) the state employee group benefit plans and the Montana university system group benefits plans are ceasing to offer coverage in accordance with applicable state law.

(14) The state employee group benefit plans and the Montana university system group benefits plans must comply with the provisions of 33-22-153 and [sections 1 and 2].

(15) An insurance contract or plan issued under this part and a group benefits plan issued by the Montana university system must provide mental health coverage that meets the provisions of Title 33, chapter 22, part 7.

(16) The employing state agency of a law enforcement officer as defined in 2-15-2040 who is covered under the state employee group benefit plan shall:

(a) if the officer is catastrophically injured in the line of duty as defined in 2-15-2040, enroll the officer and the officer's covered spouse or dependent children in COBRA continuation coverage when that officer is terminated from employment as a result of the catastrophic injury. The officer and the officer's spouse or dependent children may opt out of COBRA continuation coverage within 60 days of enrollment.

(b) enroll the officer's covered spouse or dependent children in COBRA continuation coverage if the officer dies in the line of duty as defined in 2-15-2040. The officer's spouse or dependent children may opt out of COBRA coverage within 60 days of the date of enrollment.

(c) pay the COBRA premium for 4 months of COBRA continuation coverage for the officer and the officer's covered spouse or dependent children enrolled in COBRA continuation coverage pursuant to subsections (16)(a) or (16)(b), after which time the officer and the officer's spouse or dependent children shall pay the COBRA premium. (See compiler's comments for contingent termination of certain text.)"

Section 4. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 33, chapter 32, and the provisions of Title 33, chapter 32, apply to [sections 1 and 2].

Section 5. Effective date. [This act] is effective January 1, 2026.

Section 6. Applicability. [This act] applies to health insurance policies issued or renewed on or after [the effective date of this act].

Approved May 1, 2025

CHAPTER NO. 320

[HB 591]

AN ACT DESIGNATING THE LAST FULL WEEK IN SEPTEMBER AS CELEBRATE FREEDOM WEEK IN MONTANA'S PUBLIC SCHOOLS; REQUIRING THE TRUSTEES TO ADOPT A POLICY TO ENSURE THE EFFECTIVE CONDUCT OF COMMEMORATIVE EXERCISES REQUIRED BY LAW; AMENDING SECTION 20-1-306, MCA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, informing students about the sacrifices made during the founding of the United States and the values that underpin the nation is a worthy educational goal; and

WHEREAS, promoting an in-depth understanding of founding documents, including the Declaration of Independence, the United States Constitution, and the Montana Constitution and their historical context and significance, will further this goal; and

WHEREAS, students should have a clear understanding of the relationship between ideas in the Declaration of Independence and key events in American history, including immigration, the American Revolution, the formulation of the Constitution, the abolitionist movement, and the women's suffrage movement; and

WHEREAS, the learning process will help instill a sense of patriotism and civic responsibility among students; and

WHEREAS, a designated time during the school year when these principles are highlighted is a worthy use of school time.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-1-306, MCA, is amended to read:

"20-1-306. Commemorative exercises on certain days. (1) All districts shall conduct appropriate exercises ~~during the school day~~ on the following commemorative days:

(a) Lincoln's Birthday (February 12);

(b) Washington's Birthday (February 22);

(c) Arbor Day (last Friday in April);

(d) Flag Day (June 14);

(e) Citizenship Day (September 17);

(f) American Indian Heritage Day (fourth Friday in September);

(g) Columbus Day (October 12);

(h) Pioneer Day (November 1);

(i) *Freedom Week (last full week of September), to educate students about the sacrifices made for freedom in the founding of the United States and the values on which the United States was founded;*

(j) other days designated by the legislature or governor as legal holidays.

(2) When these commemorative days fall on Saturday or Sunday, exercises may be conducted the preceding Friday.

(3) *The trustees of a district shall adopt a policy to address and ensure the effective conduct of appropriate exercises for the commemorative days provided in subsection (1)."*

Section 2. Effective date. [This act] is effective July 1, 2025.

Approved May 1, 2025

CHAPTER NO. 321

[HB 595]

AN ACT REQUIRING THE DEPARTMENT OF CORRECTIONS TO OFFER A MONTANA CORRECTIONAL EDUCATION PROGRAM FOR INMATES; REQUIRING THE CORRECTIONAL EDUCATION PROGRAM TO PROVIDE HIGH SCHOOL EQUIVALENCY AND ADULT BASIC EDUCATION PROGRAMS; PROVIDING QUALIFICATIONS FOR AN INSTRUCTOR OF THE HIGH SCHOOL EQUIVALENCY AND ADULT BASIC EDUCATION PROGRAMS; REQUIRING THE DEPARTMENT OF CORRECTIONS TO ADOPT CERTAIN POLICIES; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Montana correctional education program -- instructor qualifications. (1) There is a Montana correctional education program within the department of corrections. The Montana correctional education program shall offer a program for inmates to participate in opportunities in the state prison to further their education, including but not limited to programs to attain a high school equivalency diploma and to participate in adult basic education.

(2) To be eligible to be an instructor for a high school equivalency diploma program or an adult basic education program in the state prison, a person:

(a) must be 18 years of age or older;

(b) must be of good moral character; and

(c) shall provide proof that the person has at least one of the following qualifications:

(i) completion of an associate degree in any field;

(ii) completion of a bachelor's degree in any field;

(iii) a teaching certificate issued by another state; or

(iv) prior teaching experience, including prior military training and experience pursuant to 37-1-145.

(3) The department of corrections may not require that an instructor hold a Montana teacher or specialist certificate issued by the superintendent of public instruction.

(4) The department of corrections may adopt policies to determine which inmates are eligible to participate in the Montana correctional education program.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 53, chapter 30, part 1, and the provisions of Title 53, chapter 30, part 1, apply to [section 1].

Section 3. Effective date. [This act] is effective July 1, 2025.

Approved May 1, 2025

CHAPTER NO. 322

[HB 600]

AN ACT GENERALLY REVISING LAWS REGARDING EMERGENCY ADMINISTRATION OF MEDICATION BY AN EMPLOYEE OR AGENT OF A PUBLIC OR NONPUBLIC SCHOOL; ALLOWING A SCHOOL TO MAINTAIN

A SUPPLY OF STOCK ALBUTEROL; PROVIDING FOR THE EMERGENCY USE OF STOCK ALBUTEROL IN A SCHOOL SETTING; PROVIDING DEFINITIONS; AMENDING SECTION 20-5-420, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-5-420, MCA, is amended to read:

“20-5-420. Self-administration or possession of asthma, severe allergy, or anaphylaxis medication – definitions. (1) As used in 20-5-421, [section 2], and this section, the following definitions apply:

(a) “Anaphylaxis” means a systemic allergic reaction that can be fatal in a short time period and is also known as anaphylactic shock.

(b) “Asthma” means a chronic disorder or condition of the lungs that requires lifetime, ongoing medical intervention.

(c) “Authorized personnel” means an employee or agent identified by a school who is approved by the school administrator to administer a stock medication in a school setting or at a related activity pursuant to 20-5-421, [section 2], or 20-5-426.

(d) “Medication” means a medicine, including inhaled bronchodilators, inhaled corticosteroids, and autoinjectable epinephrine, prescribed by a licensed physician as defined in 37-3-102, a physician assistant who has been authorized to prescribe medications as provided in 37-20-404, or an advanced practice registered nurse with prescriptive authority as provided in 37-8-202(1)(h).

(e) “Respiratory distress” means a person’s inability to breathe adequately, including the perceived or actual presence of associated symptoms such as coughing, wheezing, or shortness of breath.

(f) “Self-administration” means a pupil’s discretionary use of the medication prescribed for the pupil.

(g) “Severe allergies” means a life-threatening hypersensitivity to a specific substance such as food, pollen, or dust.

(h) “Stock albuterol” means quick-relief asthma medication that is approved by the United States food and drug administration for the treatment of respiratory distress. The term includes albuterol medication delivered through a metered dose inhaler or dry-powder inhaler that includes a spacer or holding chamber that attaches to a metered dose inhaler to improve the delivery of medication.

(2) A school, whether public or nonpublic, shall permit the possession or self-administration of medication, as prescribed, by a pupil with asthma, severe allergies, or anaphylaxis if the parents or guardians of the pupil provide to the school:

(a) written authorization, acknowledging and agreeing to the liability provisions in subsection (4), for the possession or self-administration of medication as prescribed;

(b) a written statement from the pupil’s physician, physician assistant, or advanced practice registered nurse containing the following information:

(i) the name and purpose of the medication;

(ii) the prescribed dosage; and

(iii) the time or times at which or the special circumstances under which the medication is to be administered as prescribed;

(c) documentation that the pupil has demonstrated to the health care practitioner and the school nurse, if available, the skill level necessary to self-administer the asthma, severe allergy, or anaphylaxis medication as prescribed; and

(d) documentation that the pupil's physician, physician assistant, or advanced practice registered nurse has formulated a written treatment plan for managing asthma, severe allergies, or anaphylaxis episodes of the pupil and for medication use, as prescribed, by the pupil during school hours.

(3) The information provided by the parents or guardians must be kept on file in the office of the school nurse or, in the absence of a school nurse, the school's administrator.

(4) The school district or nonpublic school and its employees and agents are not liable as a result of any injury arising from the self-administration of medication by the pupil unless an act or omission is the result of gross negligence, willful and wanton conduct, or an intentional tort. The parents or guardians of the pupil must be given a written notice and sign a statement acknowledging that the school district or nonpublic school may not incur liability as a result of any injury arising from the self-administration of medication by the pupil and that the parents or guardians shall indemnify and hold harmless the school district or nonpublic school and its employees and agents against any claims, except a claim based on an act or omission that is the result of gross negligence, willful or wanton misconduct, or an intentional tort.

(5) The permission for self-administration of asthma, severe allergy, or anaphylaxis medication is effective for the school year for which it is granted and must be renewed each subsequent school year or, if the medication expires or the dosage, frequency of administration, or other conditions change, upon fulfillment of the requirements of this section.

(6) If the requirements of this section are fulfilled, a pupil with asthma, severe allergies, or anaphylaxis may possess and use the pupil's medication as prescribed:

- (a) while in school;
- (b) while at a school-sponsored activity;
- (c) while under the supervision of school personnel;
- (d) before or after normal school activities, such as while in before-school or after-school care on school-operated property; or
- (e) while in transit to or from school or school-sponsored activities.

(7) If provided by the parent, an individual who has executed a caretaker relative educational authorization affidavit pursuant to 20-5-503, an individual who has executed a caretaker relative medical authorization affidavit pursuant to 40-6-502, or a guardian and in accordance with documents provided by the pupil's physician, physician assistant, or advanced practice registered nurse, asthma, severe allergy, or anaphylaxis medication may be kept by the pupil and backup medication must be kept at a pupil's school in a predetermined location or locations to which the pupil has access in the event of an asthma, severe allergy, or anaphylaxis emergency.

(8) Immediately after using epinephrine during school hours, a student shall report to the school nurse or other adult at the school who shall provide followup care, including making a 9-1-1 emergency call.

(9) Youth correctional facilities are exempt from this section and shall adopt policies related to access and use of asthma, severe allergy, or anaphylaxis medications."

Section 2. Emergency use of stock albuterol in school setting – limit on liability – reporting. A public or nonpublic school may maintain a supply of stock albuterol, including single-use disposable holding chambers if necessary, to be administered by a school nurse or other authorized personnel to a student or nonstudent as needed for respiratory distress. A school that

intends to obtain an order for emergency use of stock albuterol in a school setting or at related activities shall adhere to the following requirements:

(1) A school that keeps stock albuterol on site shall develop a protocol related to the training of school employees, the maintenance and location of the stock albuterol, and the immediate and long-term followup to the administration of the medication, including determining when to make a 9-1-1 emergency call.

(2) The stock albuterol must be prescribed by a physician, advanced practice registered nurse, or physician assistant. The school must be designated as the patient and each prescription for stock albuterol must be filled by a licensed pharmacy.

(3) A licensed pharmacist may dispense stock albuterol medication and spacers to schools in accordance with this section.

(4) A school may enter into an agreement with a manufacturer of bronchodilators or spacers, a third-party supplier of bronchodilator or spacers, or a health care office to obtain bronchodilators or spacers at no charge, at market price, or at a reduced price. A school district may accept gifts, grants, or donations to purchase bronchodilators or spacers for emergency use.

(5) Authorized personnel shall complete an annual asthma education program approved by the department of public health and human services. The training must include causes of respiratory distress, recognition of signs and symptoms of respiratory distress, indications for the administration of albuterol, administration techniques, and the need for immediate access to a certified emergency responder.

(6) The stock albuterol must be kept in a secure and easily accessible location.

(7) A school nurse or other authorized personnel may, in good faith, administer the stock albuterol to any student or nonstudent who is experiencing respiratory distress based on the protocol developed by the school.

(8) If a school keeps stock albuterol on site that has been prescribed to the school, the school shall inform parents or guardians about the potential use of stock albuterol in a respiratory distress emergency. The school shall make the protocol available on request.

(9) In accordance with the provisions of 27-1-714, a school district or nonpublic school and its employees and agents are not liable as a result of an injury arising from the administration of stock albuterol to a student or nonstudent unless an act or omission is a result of gross negligence, willful or wanton misconduct, or an intentional tort.

(10) This section may not be interpreted to relieve a student's parent or guardian of providing a student's medication or create an expectation that a school will have stock albuterol available.

(11) A school that voluntarily possesses and makes available stock albuterol pursuant to this section shall:

(a) document the use of stock albuterol following an event and report this use to the department of public health and human services within 3 days. The reporting format and required details must be determined by the department.

(b) submit an annual report to the department of public health and human services summarizing the use of stock albuterol during each school year. The reporting format and required details must be determined by the department.

Section 3. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 20, chapter 5, part 4, and the provisions of Title 20, chapter 5, part 4, apply to [section 2].

Section 4. Effective date. [This act] is effective July 1, 2025.

Approved May 1, 2025

CHAPTER NO. 323

[HB 603]

AN ACT REMOVING THE REQUIREMENT THAT AT LEAST ONE MEMBER OF A QUASI-JUDICIAL BOARD BE AN ATTORNEY LICENSED TO PRACTICE LAW IN MONTANA; AMENDING SECTIONS 2-15-124, 2-15-1019, 2-15-1822, 2-15-2305, 2-15-2502, 2-15-3110, 2-15-3402, AND 2-15-3406, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-124, MCA, is amended to read:

“2-15-124. Quasi-judicial boards. If an agency is designated by law as a quasi-judicial board for the purposes of this section, the following requirements apply:

(1) The number of and qualifications of its members are as prescribed by law. ~~In addition to those qualifications, unless otherwise provided by law, at least one member must be an attorney licensed to practice law in this state.~~

(2) The governor shall appoint the members. A majority of the members must be appointed to serve for terms concurrent with the gubernatorial term and until their successors are appointed. The remaining members must be appointed to serve for terms ending on the first day of the third January of the succeeding gubernatorial term and until their successors are appointed. It is the intent of this subsection that the governor appoint a majority of the members of each quasi-judicial board at the beginning of the governor's term and the remaining members in the middle of the governor's term. As used in this subsection, “majority” means the next whole number greater than half.

(3) The appointment of each member is subject to the confirmation of the senate then meeting in regular session or next meeting in regular session following the appointment. A member so appointed has all the powers of the office upon assuming that office and is a de jure officer, notwithstanding the fact that the senate has not yet confirmed the appointment. If the senate does not confirm the appointment of a member, the governor shall appoint a new member to serve for the remainder of the term.

(4) A vacancy must be filled in the same manner as regular appointments, and the member appointed to fill a vacancy shall serve for the unexpired term to which the member is appointed.

(5) The governor shall designate the presiding officer. The presiding officer may make and second motions and vote.

(6) Members may be removed by the governor only for cause.

(7) Unless otherwise provided by law, each member is entitled to be paid \$100 for each day in which the member is actually and necessarily engaged in the performance of board duties and is also entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of board duties. Members who are full-time salaried officers or employees of this state or of a political subdivision of this state are not entitled to be compensated for their service as members except when they perform their board duties outside their regular working hours or during time charged against their leave, but those members are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503. Ex officio board members may not receive compensation but must receive travel expenses.

(8) A majority of the membership constitutes a quorum to do business. A favorable vote of at least a majority of the members in attendance at a meeting at which a quorum is present is required to adopt any resolution, motion, or other decision, unless otherwise provided by law.”

Section 2. Section 2-15-1019, MCA, is amended to read:

“2-15-1019. Board of directors of state compensation insurance fund – legislative liaisons. (1) There is a board of directors of the state compensation insurance fund.

(2) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121. However, the board may employ its own staff.

(3) The board may provide for its own office space and the office space of the state fund.

(4) The board consists of seven members appointed by the governor. The executive director of the state fund is an ex officio nonvoting member.

(5) (a) At least four of the seven members shall represent state fund policyholders and may be employees of state fund policyholders. At least four members of the board shall represent private enterprises. One of the seven members may be a licensed insurance producer. One of the seven members must be a person with executive management experience in an insurance company or executive level experience in insurance financial accounting.

(b) A member of the board may not:

(i) except for the licensed insurance producer member, represent or be an employee of an insurance company that is licensed to transact workers' compensation insurance under compensation plan No. 2; or

(ii) be an employee of a self-insured employer under compensation plan No. 1.

(6) A member is appointed for a term of 4 years. A term begins April 1 of odd-numbered years and ends March 31. The governor shall appoint board members on or before February 1 of the odd-numbered years that coincide with the expiration of the board members' terms. The terms of board members must be staggered. A member of the board may serve no more than two 4-year terms. A member shall hold office until the end of the term.

(7) The members must be appointed and compensated in the same manner as members of a quasi-judicial board as provided in 2-15-124, except as otherwise provided in this section ~~and except that the requirement that at least one member be an attorney does not apply.~~

(8) There must be two legislative liaisons to the board consisting of members of the economic affairs interim committee provided for in 5-5-223. Subject to 5-5-234, the presiding officer of the economic affairs interim committee shall appoint the liaisons from the majority party and the minority party at the first interim committee meeting.

(9) Legislative liaisons shall serve from appointment through each even-numbered calendar year.

(10) A legislative liaison may:

(a) attend board meetings; and

(b) receive board meeting agendas and information relating to agenda items from the staff of the state fund.

(11) Legislative liaisons appointed pursuant to subsection (8) are entitled to compensation and expenses, as provided in 5-2-302, to be paid by the economic affairs interim committee and the state fund from a \$100 annual fee paid by the state fund into the general fund.”

Section 3. Section 2-15-1822, MCA, is amended to read:

“2-15-1822. Hard-rock mining impact board. (1) There is a hard-rock mining impact board.

(2) The hard-rock mining impact board is a five-member board.

(3) (a) Subject to subsections (3)(b) and (3)(c), the hard-rock mining impact board must include among its members:

(i) a representative of the hard-rock mining industry;

(ii) a representative of a major financial institution in Montana;

(iii) a person who, when appointed to the board, is an elected school district trustee;

(iv) a person who, when appointed to the board, is an elected county commissioner;

(v) a member of the public at large.

(b) Three persons appointed to the board must reside in an area impacted or expected to be impacted by large-scale mineral development.

(c) At least two persons must be appointed from each district provided for in 2-15-156.

(4) The hard-rock mining impact board is a quasi-judicial board subject to the provisions of 2-15-124 ~~except that one of the members need not be an attorney licensed to practice law in this state.~~ The board shall elect a presiding officer from among its members."

Section 4. Section 2-15-2305, MCA, is amended to read:

"2-15-2305. Montana board of pardons and parole – composition and qualifications – allocation – quasi-judicial. (1) There is a board of pardons and parole consisting of five members.

(2) Board members must possess at least one of the following qualifications:

(a) a college degree in criminology, corrections, or a related social science;

(b) at least 5 years of extensive work experience in corrections, the criminal justice system, or criminal law; or

(c) a law degree.

(3) Consideration should be given to balancing members' expertise or knowledge of:

(a) American Indian culture;

(b) serious mental illness and recovery from serious mental illness; and

(c) victim awareness.

(4) Board members shall serve staggered 6-year terms. The terms of board members run with the position, and if a vacancy occurs, the governor shall appoint a person to fill the unexpired portion of the term.

(5) The governor shall designate the presiding officer, as provided in 2-15-124. The governor may designate a different presiding officer at any time. If the governor designates a different presiding officer, the former presiding officer still serves as a board member unless removed for cause pursuant to 2-15-124(6).

(6) The board is allocated to the department of corrections for administrative purposes only as prescribed in 2-15-121. However, the board may hire its own personnel, and 2-15-121(2)(d) does not apply.

(7) The board is designated as a quasi-judicial board for *the* purposes of 2-15-124, except that board members must be compensated as provided in 46-23-111; *and* the terms of board members must be staggered as provided in subsection (4); ~~and the provisions of 2-15-124(1) do not apply to the board.~~

(8) A favorable vote of a majority of the members of the board is required to implement a policy, procedure, or administrative rule. A favorable vote of the majority of the members of a hearing panel, as defined in 46-23-103, is required to make decisions regarding parole and executive clemency."

Section 5. Section 2-15-2502, MCA, is amended to read:

"2-15-2502. Transportation commission. (1) There is a transportation commission composed of five members. One member must be a resident of and appointed from each of these districts, each composed of the counties named:

(a) District 1. Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Ravalli, Granite, Powell;

(b) District 2. Deer Lodge, Silver Bow, Beaverhead, Madison, Gallatin, Meagher, Broadwater, Jefferson, Park;

(c) District 3. Glacier, Toole, Liberty, Hill, Blaine, Pondera, Teton, Chouteau, Cascade, Lewis and Clark;

(d) District 4. Carter, Powder River, Fallon, Custer, Rosebud, Garfield, Phillips, Valley, McCone, Prairie, Dawson, Wibaux, Richland, Roosevelt, Daniels, Sheridan;

(e) District 5. Golden Valley, Stillwater, Carbon, Big Horn, Yellowstone, Musselshell, Judith Basin, Fergus, Petroleum, Treasure, Wheatland, Sweet Grass.

(2) Of the members appointed from districts 1, 3, 4, and 5, at least one must have specific knowledge of Indian culture and tribal transportation needs. The member provided for under this subsection must be selected by the governor after consultation with the Montana members of the Rocky Mountain tribal leaders council.

(3) Two members may not be residents of the same district at the time of appointment or during their respective terms of office.

(4) Not more than three members may at the time of appointment or during their respective terms be members of the same political party.

(5) An elective state official or state officer, during the term of office to which elected or appointed, or a state employee may not be a member of the commission.

(6) A resolution, motion, or other decision of the commission may not be adopted or passed without the favorable vote of at least three members.

(7) The commission is allocated to the department of transportation for administrative purposes only as prescribed in 2-15-121.

(8) The commission is designated as a quasi-judicial board for the purposes of 2-15-124; however, the provision of 2-15-124(1) that at least one member of a quasi-judicial board be an attorney does not apply to the commission.

(9) The commission may adopt rules necessary for its government.

(10) The director of transportation or the director's designee shall act as liaison between the commission and the department."

Section 6. Section 2-15-3110, MCA, is amended to read:

"2-15-3110. Livestock loss board – purpose, membership, and qualifications. (1) There is a livestock loss board. The purpose of the board is to administer the programs called for in the Montana gray wolf conservation and management plan, the Montana mountain lion management plan, and the Montana grizzly bear management plan and established in 2-15-3111 through 2-15-3113, with funds provided through the accounts established in 81-1-110, in order to minimize losses caused by wolves, mountain lions, and grizzly bears to livestock producers and to reimburse livestock producers for livestock losses from wolf, mountain lion, and grizzly bear predation.

(2) The board consists of five members, appointed by the governor, as follows:

(a) three members who are actively involved in the livestock industry and who have knowledge and experience with regard to wildlife impacts or management; and

(b) two members of the general public who are or have been actively involved in wildlife conservation or wildlife management and who have knowledge and experience with regard to livestock production or management.

(3) The board is designated as a quasi-judicial board for the purposes of 2-15-124. Notwithstanding the provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a member of the board.

(4) The board is allocated to the department of livestock for administrative purposes only as provided in 2-15-121.

(5) The board shall adopt rules to implement the provisions of 2-15-3110 through 2-15-3114 and 81-1-110 through 81-1-113.

(6) The board shall prioritize grants for prevention of wolf and grizzly bear predation over those for mountain lion predation.”

Section 7. Section 2-15-3402, MCA, is amended to read:

“2-15-3402. Fish and wildlife commission. (1) There is a fish and wildlife commission.

(2) (a) The commission consists of seven members. At least one member must be experienced in the breeding and management of domestic livestock. The governor shall appoint one member for each of the administrative regions of the department of fish, wildlife, and parks, which are headquartered in the following locations:

- (i) Kalispell;
- (ii) Missoula;
- (iii) Bozeman;
- (iv) Great Falls;
- (v) Billings;
- (vi) Glasgow; and
- (vii) Miles City.

(b) (i) To be eligible to serve on the commission, the member must reside in the administrative region the member will represent or within 10 air miles of the region’s boundary as it exists on the date the member is appointed.

(ii) If the commission adjusts a region’s boundary after a member is appointed so that the member no longer meets the requirements of subsection (2)(b)(i), the member may continue to represent the region until the member’s current term expires.

(3) Appointments must be made without regard to political affiliation and must be made solely for the wise management of fish, wildlife, and related recreational resources of this state. A person may not be appointed to the commission unless the person is informed or interested and experienced in the subject of fish, wildlife, and recreation and the requirements for the conservation and protection of fish, wildlife, and recreational resources.

(4) A vacancy occurring on the commission must be filled by the governor in the same manner and from the administrative region in which the vacancy occurs.

(5) The fish and wildlife commission is designated as a quasi-judicial board for the purposes of 2-15-124. ~~Notwithstanding the provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a member of the commission.”~~

Section 8. Section 2-15-3406, MCA, is amended to read:

“2-15-3406. State parks and recreation board – composition.

(1) There is a state parks and recreation board.

(2) The board consists of five members appointed by the governor, as prescribed in 2-15-124. The governor shall appoint one member from each of the following districts:

(a) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis and Clark Counties;

(b) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin, Park, and Sweet Grass Counties;

(c) District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

(d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, and Wibaux Counties;

(e) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.

(3) Appointments must be made without regard to political affiliation and must be made solely for the wise management of state parks and outdoor recreational resources administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9.

(4) A person appointed to the board must be informed or experienced in the conservation and protection of state parks, heritage resources, natural resources, tourism promotion and development, or outdoor recreation.

(5) A vacancy on the board must be filled by the governor in the same manner and from the district in which the vacancy occurs.

(6) The board is designated as a quasi-judicial board for *the* purposes of 2-15-124, ~~except that the requirement that at least one member be an attorney does not apply.~~

Section 9. Transition. The provisions of [this act] apply to any vacancies arising after [the effective date of this act] and does not affect any members serving as of [the effective date of this act].

Section 10. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 324

[HB 612]

AN ACT PROVIDING IF A SENTENCE IS REVOKED THE NEW SENTENCE MUST RUN CONSECUTIVELY TO ANY EXISTING SENTENCE UNLESS THE ORIGINAL SENTENCE RAN CONCURRENTLY; AND AMENDING SECTIONS 46-18-203 AND 46-18-401, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-18-203, MCA, is amended to read:

“46-18-203. Revocation of suspended or deferred sentence. (1) Upon the filing of a petition for revocation showing probable cause that the offender has violated any condition of a sentence, any condition of a deferred imposition of sentence, or any condition of supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-625(4), or 45-5-711, the judge may issue an order for a hearing on revocation. The order must require the offender to appear at a specified time and place for the hearing and be served by delivering a copy of the petition and order to the offender personally. The judge may also issue an arrest warrant directing any peace officer or a probation and parole officer to arrest the offender and bring the offender before the court.

(2) The petition for a revocation must be filed with the sentencing court either before the period of suspension or deferral has begun or during the period of suspension or deferral but not after the period has expired. Expiration of the period of suspension or deferral after the petition is filed does not deprive the court of its jurisdiction to rule on the petition.

(3) The provisions pertaining to bail, as set forth in Title 46, chapter 9, are applicable to persons arrested pursuant to this section.

(4) Without unnecessary delay and no more than 60 days after arrest, the offender must be brought before the judge, and at least 10 days prior to the hearing the offender must be advised of:

- (a) the allegations of the petition;
- (b) the opportunity to appear and to present evidence in the offender's own behalf;
- (c) the opportunity to question adverse witnesses; and
- (d) the right to be represented by counsel at the revocation hearing pursuant to Title 46, chapter 8, part 1.

(5) A hearing is required before a suspended or deferred sentence can be revoked or the terms or conditions of the sentence can be modified unless:

- (a) the offender admits the allegations and waives the right to a hearing; or
- (b) the relief to be granted is favorable to the offender and the prosecutor, after having been given notice of the proposed relief and a reasonable opportunity to object, has not objected. An extension of the term of probation is not favorable to the offender for the purposes of this subsection (5)(b).

(6) (a) At the hearing, the prosecution shall prove, by a preponderance of the evidence, that there has been a violation of:

- (i) the terms and conditions of the suspended or deferred sentence; or
- (ii) a condition of supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-625(4), or 45-5-711.

(b) However, when a failure to pay restitution is the basis for the petition, the offender may excuse the violation by showing sufficient evidence that the failure to pay restitution was not attributable to a failure on the offender's part to make a good faith effort to obtain sufficient means to make the restitution payments as ordered.

(7) (a) If the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence by committing either compliance violations or noncompliance violations, or both, the judge may:

(i) continue the suspended or deferred sentence without a change in conditions;

(ii) continue the suspended sentence with modified or additional terms and conditions, which may include placement in:

- (A) a secure facility designated by the department for up to 9 months; or
- (B) a community corrections facility or program designated by the department for up to 9 months, including but not limited to placement in a prerelease center, sanction or hold bed, transitional living program, enhanced supervision program, relapse intervention bed, chemical dependency treatment, or 24/7 sobriety program;

(iii) revoke the suspension of sentence and require the offender to serve either the sentence imposed or any sentence that could have been imposed that does not include a longer imprisonment or commitment term than the original sentence. *A sentence imposed upon revocation must run consecutively to any other previously existing sentence unless the suspended or deferred sentence that is being revoked ran concurrently to the previously existing sentence; or.*

(iv) if the sentence was deferred, impose any sentence that might have been originally imposed.

(b) If a suspended or deferred sentence is revoked, the judge shall consider any elapsed time, consult the records and recollection of the probation and parole officer, and allow all of the elapsed time served without any record or recollection of violations as a credit against the sentence. If the judge determines that elapsed time should not be credited, the judge shall state the reasons for the determination in the order. Credit must be allowed for time served in a detention center or for home arrest time already served.

(c) If the judge finds that the offender has not violated a term or condition of a suspended or deferred sentence, the judge is not prevented from setting, modifying, or adding conditions of probation as provided in 46-23-1011.

(8) If the judge finds that the prosecution has not proved, by a preponderance of the evidence, that there has been a violation of the terms and conditions of the suspended or deferred sentence, the petition must be dismissed and the offender, if in custody, must be immediately released.

(9) All sanction and placement decisions must be documented in the offender's file.

(10) As used in this section:

(a) "absconding" means when an offender deliberately makes the offender's whereabouts unknown to a probation and parole officer or fails to report for the purposes of avoiding supervision, and reasonable efforts by the probation and parole officer to locate the offender have been unsuccessful; and

(b) "compliance violation" means a violation of the conditions of supervision that is not:

(i) a new criminal offense;

(ii) possession of a firearm in violation of a condition of probation;

(iii) behavior by the offender or any person acting at the offender's direction that could be considered stalking, harassing, or threatening the victim of the offense or a member of the victim's immediate family or support network;

(iv) absconding; or

(v) failure to enroll in or complete a required sex offender treatment program or a treatment program designed to treat violent offenders.

(11) The provisions of this section apply to any offender whose suspended or deferred sentence is subject to revocation regardless of the date of the offender's conviction and regardless of the terms and conditions of the offender's original sentence."

Section 2. Section 46-18-401, MCA, is amended to read:

"46-18-401. Consecutive sentences. (1) Unless the judge otherwise orders:

(a) whenever a person serving a term of commitment imposed by a court in this state is committed for another offense, the shorter term or shorter remaining term may not be merged in the other term; and

(b) whenever a person under suspended sentence or on probation for an offense committed in this state is sentenced for another offense, the period still to be served on suspended sentence or probation may not be merged in any new sentence of commitment or probation.

(2) The court, whether or not it merges the sentences, shall immediately furnish each of the other courts and the penal institutions in which the defendant is confined under sentence with authenticated copies of its sentence, which must cite any sentence that is merged.

(3) If an unexpired sentence is merged pursuant to subsection (1), the court that imposed the sentence shall modify it in accordance with the effect of the merger.

(4) Separate sentences for two or more offenses must run consecutively unless the court otherwise orders.

(5) *If a sentence is revoked pursuant to 46-18-203, the sentence imposed upon revocation must run consecutively to any other previously existing sentence unless the suspended or deferred sentence that is being revoked ran concurrently to the previously existing sentence."*

Approved May 1, 2025

CHAPTER NO. 325

[HB 614]

AN ACT REVISING COUNTY ZONING LAWS; ALLOWING FOR THE TERMINATION OF A ZONING DISTRICT IF THE COUNTY HAS OPTED INTO THE MONTANA LAND USE PLANNING ACT OR IF THE ZONING DISTRICT IS TO BE INCLUDED IN ANOTHER ZONING DISTRICT; AND AMENDING SECTIONS 76-2-118 AND 76-2-229, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-2-118, MCA, is amended to read:

~~“76-2-118. Referendum to terminate~~ Termination of zoning district. (1) (a) Real property owners in a zoning district may petition the board of county commissioners to submit a referendum to the registered electors residing in the zoning district to terminate the zoning district. The petition must be in writing and contain the signatures and addresses of 20% or more of the real property owners in the zoning district. The petition requesting a referendum for the termination of a zoning district must be delivered to the county clerk and recorder, who shall endorse on it the date when the petition was received and validate the signatures within 60 days of receipt of the petition. If the petition contains valid signatures of at least 20% of the real property owners within the zoning district, the county clerk and recorder shall notify the county commissioners.

(2)(b) On receipt of a valid petition described in subsection (1)(a), the county commissioners shall submit the referendum to the registered electors residing in the district in an election conducted pursuant to Title 13, chapter 1, part 4 or 5.

(3)(c) If the referendum described in subsection (1)(a) and conducted under subsection (2) (1)(b) is not successful, the real property owners in the zoning district may not bring forth a subsequent referendum petition for 3 years from the date that the original referendum was submitted to the registered electors pursuant to subsection (2) (1)(b).

(2) *The board of county commissioners may, after providing notice as required in 76-2-106(1) and holding a public hearing, pass a resolution to terminate a zoning district if the county:*

(a) has decided to comply with the provisions of the Montana Land Use Planning Act under Title 76, chapter 25, using the process specified in 76-25-105; or

(b) has established a larger zoning district pursuant to Title 76, chapter 2, part 2, that encompasses the land within the zoning district to be terminated.”

Section 2. Section 76-2-229, MCA, is amended to read:

~~“76-2-229. Referendum to terminate~~ Termination of zoning district. (1) (a) Real property owners in a zoning district may petition the board of county commissioners to submit a referendum to the registered electors residing in the zoning district to terminate the zoning district. The petition must be in writing and contain the signatures and addresses of 20% or more of the real property owners in the zoning district. The petition requesting a referendum for the termination of a zoning district must be delivered to the county clerk and recorder, who shall endorse on it the date when the petition was received and validate the signatures within 60 days of receipt of the petition. If the petition contains valid signatures of at least 20% of the real property owners within the zoning district, the county clerk and recorder shall notify the county commissioners.

(2)(b) On receipt of a valid petition described in subsection (1)(a), the county commissioners shall submit the referendum to the registered electors residing in the district in an election conducted pursuant to Title 13, chapter 1, part 5.

(c) *If the referendum described in subsection (1)(a) and conducted under subsection (1)(b) is not successful, the real property owners in the zoning district may not bring forth a subsequent referendum petition for 3 years from the date that the original referendum was submitted to the registered electors pursuant to subsection (1)(b).*

(2) *The board of county commissioners may, after providing notice as required in 76-2-205(1) and holding a public hearing, pass a resolution to terminate a zoning district if the county:*

(a) *has decided to comply with the provisions of the Montana Land Use Planning Act under Title 76, chapter 25, using the process specified in 76-25-105; or*

(b) *has established a larger zoning district pursuant to this part that encompasses the land within the zoning district to be terminated."*

Approved May 1, 2025

CHAPTER NO. 326

[HB 616]

AN ACT PROVIDING FOR DATA MODELING WHEN RELEASING A STRIP OR UNDERGROUND MINE PERFORMANCE BOND; PROVIDING FOR CONTINGENT VOIDNESS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 82-4-232, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 82-4-232, MCA, is amended to read:

"82-4-232. Area mining required – bond – alternative plan. (1) (a) Area strip mining, a method of operation that does not produce a bench or fill bench, is required where strip mining is proposed. The area of land affected must be backfilled and graded to the approximate original contour of the land. However:

(i) consistent with the adjacent unmined landscape elements, the operator may propose and the department may approve regraded topography gentler than premining topography in order to enhance the postmining land use and develop a postmining landscape that will provide greater moisture retention, greater stability, and reduced soil losses from runoff and erosion;

(ii) postmining slopes may not exceed the angle of repose or lesser slope as is necessary to achieve a long-term static safety factor of 1.3 or greater and to prevent slides;

(iii) permanent impoundments may be approved if they are suitable for the postmining land use and otherwise meet the requirements of this part, as provided by department rules; and

(iv) reclaimed topography must be suitable for the approved postmining land use.

(b) Spoil from the first cut is not required to be transported to the last cut if highwalls are eliminated, box cut spoils are graded to blend in with the surrounding terrain, and the approximate original contour of the land is achieved.

(c) When directed by the department, the operator shall construct in the final grading diversion ditches, depressions, or terraces that will accumulate or control the water runoff.

(2) In addition to the backfilling and grading requirements, the operator's method of operation on steep slopes may be regulated and controlled according to rules adopted by the department. These rules may require any measure to accomplish the purpose of this part.

(3) For coal mining on prime farmlands, the department shall establish by rule specifications for soil removal, storage, replacement, and reconstruction, and the operator must as a minimum be required to:

(a) (i) segregate the A horizon of the natural soil, except when it can be shown that other available soil materials will create a final soil having a greater productive capacity; and

(ii) if not used immediately, stockpile this material separately from other spoil and provide needed protection from wind and water erosion or contamination by other acid or toxic material;

(b) (i) segregate the B horizon of the natural soil, or underlying C horizon or other strata, or a combination of the horizons or other strata that are shown to be both texturally and chemically suitable for plant growth and that can be shown to be equally or more favorable for plant growth than the B horizon in sufficient quantities to create in the regraded final soil a root zone of comparable depth and quality to that that existed in the natural soil; and

(ii) if not used immediately, stockpile this material separately from other spoil and provide needed protection from wind and water erosion or contamination by acid or toxic material;

(c) replace and regrade the root zone material described in subsection (3)(b) with proper compaction and uniform depth over the regraded spoil material; and

(d) redistribute and grade in a uniform manner the surface soil horizon described in subsection (3)(a).

(4) All available topsoil must be removed in a separate layer, guarded from erosion and pollution, and kept in a condition so that it can sustain vegetation of at least the quality and variety it sustained prior to removal. However, the operator shall accord substantially the same treatment to any subsurface deposit of material that is capable, as determined by the department, of supporting surface vegetation virtually as well as the present topsoil. After the operation has been backfilled and graded, the topsoil or the best available subsurface deposit of material that is best able to support vegetation must be returned as the top layer.

(5) As determined by rules of the department, time limits must be established requiring backfilling, grading, subsidence stabilization, water control, highwall reduction, topsoiling, planting, and revegetation to be kept current. All backfilling, subsidence stabilization, sealing, grading, and topsoiling must be completed before necessary equipment is moved from the operation.

(6) (a) (i) The permittee may file an application with the department for the release of all or part of a performance bond. The application must contain a proposed public notice of the precise location of the land affected, the number of acres for which bond release is sought, the permit and the date approved, the amount of the bond filed and the portion sought to be released, the type and appropriate dates of reclamation work performed, and a description of the results achieved as they relate to the permittee's approved reclamation plan. *The description of the results may include other information or methods, including predictive modeling, which may be used in conjunction with*

monitoring data compiled for the performance bond release application to demonstrate compliance with the approved reclamation plan.

(ii) ~~In addition, as~~ As part of any bond release application, the permittee shall submit copies of letters that the permittee has sent to adjoining property owners, local governmental bodies, planning agencies, and sewage and water treatment authorities or water companies in the locality of the operation, notifying them of the permittee's intention to seek release from the bond.

(b) The department shall determine whether the application is administratively complete. An application is administratively complete if it includes:

(i) the location and acreage of the land for which bond release is sought;

(ii) the amount of bond release sought;

(iii) a description of the completed reclamation, including the date of performance;

(iv) a discussion of how the results of the completed reclamation satisfy the requirements of the approved reclamation plan, *which may include a description of other information or methods, including predictive modeling, which may be used in conjunction with monitoring data for the purposes of demonstrating compliance with the approved reclamation plan;* and

(v) information required by rules implementing this part.

(c) The department shall notify the applicant in writing of its determination no later than 60 days after submittal of the application. If the department determines that the application is not administratively complete, it shall specify in the notice those items that the application must address. After an application for bond release has been determined to be administratively complete by the department, the permittee shall publish a public notice that has been approved as to form and content by the department at least once a week for 4 successive weeks in a newspaper of general circulation in the locality of the mining operation.

(d) Any person with a valid legal interest that might be adversely affected by the release of a bond or the responsible officer or head of any federal, state, or local governmental agency that has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation or is authorized to develop and enforce environmental standards with respect to the operation may file written objections to the proposed release of bond to the department within 30 days after the last publication of the notice. If written objections are filed and a hearing is requested, the department shall hold a public hearing in the locality of the operation proposed for bond release or in Helena, at the option of the objector, within 30 days of the request for hearing. The department shall inform the interested parties of the time and place of the hearing. The date, time, and location of the public hearing must be advertised by the department in a newspaper of general circulation in the locality for 2 consecutive weeks. Within 30 days after the hearing, the department shall notify the permittee and the objector of its final decision.

(e) Without prejudice to the rights of the objector or the permittee or the responsibilities of the department pursuant to this section, the department may establish an informal conference to resolve written objections.

(f) For the purpose of the hearing under subsection (6)(d), the department may administer oaths, subpoena witnesses or written or printed materials, compel the attendance of witnesses or the production of materials, and take evidence, including but not limited to conducting inspections of the land affected and other operations carried on by the permittee in the general vicinity. A verbatim record of each public hearing required by this section must

be made, and a transcript must be made available on the motion of any party or by order of the department.

(g) If the applicant significantly modifies the application after the application has been determined to be administratively complete, the department shall conduct a new review, including an administrative completeness determination. A significant modification includes but is not limited to:

(i) the notification of an additional property owner, local governmental body, planning agency, or sewage and water treatment authority of the permittee's intention to seek a bond release;

(ii) a material increase in the acreage for which a bond release is sought or in the amount of bond release sought; or

(iii) a material change in the reclamation for which a bond release is sought or the information used to evaluate the results of that reclamation.

(h) The department shall, within 30 days of determining that the application is administratively complete or as soon as weather permits, conduct an inspection and evaluation of the reclamation work involved. In the evaluation, the department shall consider, among other things, the degree of difficulty in completing any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of continuance or future occurrence of the pollution, and the estimated cost of abating the pollution. *Other information or methods acceptable to the department, including predictive modeling, may be used in conjunction with monitoring data for the purposes of the evaluation and to demonstrate compliance with the approved reclamation plan.*

(i) The department shall review each administratively complete application to determine the acceptability of the application. A complete application is acceptable if the application is in compliance with all of the applicable requirements of this part, the rules adopted under this part, and the permit. *Other information or methods acceptable to the department, including predictive modeling, may be used in conjunction with monitoring data for the purposes of determining the acceptability of the application and demonstrating compliance with the approved reclamation plan.*

(j) (i) The department shall notify the applicant in writing regarding the acceptability of the application no later than 60 days from the date of the inspection.

(ii) If the department determines that the application is not acceptable, it shall specify in the notice those items that the application must address.

(iii) If the applicant revises the application in response to a notice of unacceptability, the department shall review the revised application and notify the applicant in writing within 60 days of the date of receipt as to whether the revised application is acceptable.

(iv) If the revision constitutes a significant modification, the department shall conduct a new review, beginning with an administrative completeness determination.

(v) A significant modification includes but is not limited to:

(A) the notification of an additional property owner, local governmental body, planning agency, or sewage and water treatment authority of the permittee's intention to seek a bond release;

(B) a material increase in the acreage for which a bond release is sought or the amount of bond release sought; or

(C) a material change in the reclamation for which a bond release is sought or the information used to evaluate the results of that reclamation.

(k) At the request of the permittee, and for a designated area within the permit boundary within or across affected drainage basins, the department

shall release the bond in whole or in part if the reclamation covered by the bond or portion of the bond has been accomplished as required by this part according to the following schedule:

(i) When the permittee completes the plugging, backfilling, regrading, and drainage control of a bonded area in accordance with the approved reclamation plan, the department shall release 60% of the bond or collateral for the designated area within the permit boundary.

(ii) The department shall release a portion of the bond for the designated area that would be sufficient for a third party to cover the cost of replacing soil after revegetation and soil stability have been established in the designated area in accordance with the approved reclamation plan. Whenever a silt dam is to be retained as a permanent impoundment, that portion of the bond may also be released under this subsection (6)(k)(ii) if provisions for sound future maintenance by the operator or the landowner are made with the department. *Other information or methods acceptable to the department, including predictive modeling, may be used in conjunction with monitoring data for the purposes of determining soil replacement costs or silt dam maintenance and demonstrating compliance with the approved reclamation plan.*

(iii) Except as provided in subsection (6)(k)(iv), in accordance with the requirements of 82-4-235, upon expiration of the period specified for responsibility, and after the designated area has been successfully revegetated, the remaining total of the bond required for a third party to establish vegetation must be released for the designated area.

(iv) The department shall retain a portion of the bond sufficient for a third party to fully satisfy remaining permit conditions if:

(A) the disturbed areas eligible for release are contributing suspended solids to streamflow or runoff outside of the affected drainage basin or permit boundary in excess of the requirements of 82-4-231(10)(k), *as demonstrated by either sediment sampling or predictive modeling as approved by the department;*

(B) soil productivity for prime farmlands eligible for release is not returned to equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices, as determined from the soil survey; or

(C) the permittee has not successfully completed all reclamation activities, including water replacement, in the designated area.

(v) On request by the permittee, the department shall release all final bonds when, in accordance with the requirements of this chapter, the permittee successfully completes all prospecting, mining, and reclamation activities within the designated area.

(l) If the department disapproves the application for release of the bond or a portion of the bond, it shall:

(i) provide to the permittee detailed written findings demonstrating that the reclamation covered by the bond or a portion of the bond has not been accomplished as required by this part; and

(ii) recommend corrective actions necessary to secure the release and allowing opportunity for a public hearing.

(m) When an application for total or partial bond release is filed with the department, it shall notify the municipality or county in which a prospecting or mining operation is located by certified mail at least 30 days prior to the release of all or a portion of the bond.

(7) All disturbed areas must be reclaimed in a timely manner to conditions that are capable of supporting the land uses that they were capable of supporting prior to any mining or to higher or better uses as approved pursuant to subsection (8).

(8) (a) An operator may propose a higher or better use as an alternative postmining land use. If the landowner is not the operator, the operator shall submit written documentation of the concurrence of the landowner or the land management agency with jurisdiction over the land. The department may approve the proposed alternative postmining land use only if it meets all of the following criteria:

(i) There is a reasonable likelihood for achievement of the alternative land use.

(ii) The alternative land use does not present any actual or probable hazard to the public health or safety or any threat of water diminution or pollution.

(iii) The alternative land use will not:

(A) be impractical or unreasonable;

(B) be inconsistent with applicable land use policies or plans;

(C) involve unreasonable delay in implementation; or

(D) cause or contribute to violation of federal, state, or local law.

(b) As used in this section, the term "landowner" includes a person who has sold the surface estate to the operator with an option to repurchase the surface estate after mining and reclamation are complete.

(9) The reclamation plan must incorporate appropriate wildlife habitat enhancement features that are integrated with cropland, grazing land, pastureland, land occasionally cut for hay, or other uses in order to enhance habitat diversity, with emphasis on big game animals, game birds, and threatened and endangered species that have been documented to live in the area of land affected, and to enhance wetlands and riparian areas along rivers and streams and bordering ponds and lakes. Incorporation of wildlife habitat enhancement features does not constitute a change in land use to fish and wildlife habitat and may not interfere with the designated land use.

(10) Facilities existing prior to mining, including but not limited to public roads, utility lines, railroads, or pipelines, may be replaced as part of the reclamation plan."

Section 2. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 3. Contingent voidness. (1) If the provisions of [this act] are disapproved by the United States secretary of the interior pursuant to 30 CFR 732, then [this act] is void.

(2) Within 15 days of the effective date of a disapproval pursuant to subsection (1), the department of environmental quality shall notify the code commissioner, certifying that the disapproval has occurred.

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 327

[HB 625]

AN ACT PROVIDING FOR A REDUCTION IN A COUNTY'S ENTITLEMENT SHARE IF THE COUNTY FAILS TO COMPLY WITH MANDATORY CHILD ABUSE OR NEGLECT REPORTING REQUIREMENTS; REQUIRING THAT THE ATTORNEY GENERAL REPORT NONCOMPLIANCE TO THE DEPARTMENT OF REVENUE; AND AMENDING SECTIONS 15-1-121 AND 41-3-210, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-1-121, MCA, is amended to read:

“15-1-121. Entitlement share payment – purpose – appropriation.

(1) As described in 15-1-120(3), each local government is entitled to an annual amount that is the replacement for revenue received by local governments for diminishment of property tax base and various earmarked fees and other revenue that, pursuant to Chapter 574, Laws of 2001, amended by section 4, Chapter 13, Special Laws of August 2002, and later enactments, were consolidated to provide aggregation of certain reimbursements, fees, tax collections, and other revenue in the state treasury with each local government's share. The reimbursement under this section is provided by direct payment from the state treasury rather than the ad hoc system that offset certain state payments with local government collections due the state and reimbursements made by percentage splits, with a local government remitting a portion of collections to the state, retaining a portion, and in some cases sending a portion to other local governments.

(2) The sources of dedicated revenue that were relinquished by local governments in exchange for an entitlement share of the state general fund were:

(a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;

(b) vehicle, boat, and aircraft taxes and fees pursuant to:

(i) Title 23, chapter 2, part 5;

(ii) Title 23, chapter 2, part 6;

(iii) Title 23, chapter 2, part 8;

(iv) 61-3-317;

(v) 61-3-321;

(vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001;

(vii) Title 61, chapter 3, part 7;

(viii) 5% of the fees collected under 61-10-122;

(ix) 61-10-130;

(x) 61-10-148; and

(xi) 67-3-205;

(c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);

(d) district court fees pursuant to:

(i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);

(ii) 25-1-202;

(iii) 25-9-506; and

(iv) 27-9-103;

(e) certificate of title fees for manufactured homes pursuant to 15-1-116;

(f) financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part 7;

(g) all beer, liquor, and wine taxes pursuant to:

(i) 16-1-404;

(ii) 16-1-406; and

(iii) 16-1-411;

(h) late filing fees pursuant to 61-3-220;

(i) title and registration fees pursuant to 61-3-203;

(j) veterans' cemetery license plate fees pursuant to 61-3-459;

(k) county personalized license plate fees pursuant to 61-3-406;

(l) special mobile equipment fees pursuant to 61-3-431;

(m) single movement permit fees pursuant to 61-4-310;

(n) state aeronautics fees pursuant to 67-3-101; and

(o) department of natural resources and conservation payments in lieu of taxes pursuant to former Title 77, chapter 1, part 5.

(3) Except as provided in subsection (7)(b), the total amount received by each local government in the prior fiscal year as an entitlement share payment under this section is the base component for the subsequent fiscal year distribution, and in each subsequent year the prior year entitlement share payment, including any reimbursement payments received pursuant to subsection (7), is each local government's base component. The sum of all local governments' base components is the fiscal year entitlement share pool.

(4) (a) Except as provided in subsections (4)(b)(iv) and (7)(b), the base entitlement share pool must be increased annually by an entitlement share growth rate as provided for in this subsection (4). The amount determined through the application of annual growth rates is the entitlement share pool for each fiscal year.

(b) By October 1 of each year, the department shall calculate the growth rate of the entitlement share pool for the next fiscal year in the following manner:

(i) The department shall calculate the entitlement share growth rate based on the ratio of two factors of state revenue sources for the first, second, and third most recently completed fiscal years as recorded on the statewide accounting, budgeting, and human resource system. The first factor is the sum of the revenue for the first and second previous completed fiscal years received from the sources referred to in subsections (2)(b), (2)(c), and (2)(g) divided by the sum of the revenue for the second and third previous completed fiscal years received from the same sources multiplied by 0.75. The second factor is the sum of the revenue for the first and second previous completed fiscal years received from individual income tax as provided in Title 15, chapter 30, and corporate income tax as provided in Title 15, chapter 31, divided by the sum of the revenue for the second and third previous completed fiscal years received from the same sources multiplied by 0.25.

(ii) Except as provided in subsections (4)(b)(iii) and (4)(b)(iv), the entitlement share growth rate is the lesser of:

(A) the sum of the first factor plus the second factor; or

(B) 1.03 for counties, 1.0325 for consolidated local governments, and 1.035 for cities and towns.

(iii) In no instance can the entitlement growth factor be less than 1. Subject to subsection (4)(b)(iv), the entitlement share growth rate is applied to the most recently completed fiscal year entitlement payment to determine the subsequent fiscal year payment.

(iv) The entitlement share growth rate, as described in this subsection (4), is:

(A) for fiscal year 2018, 1.005;

(B) for fiscal year 2019, 1.0187;

(C) for fiscal year 2020 and thereafter, determined as provided in subsection (4)(b)(ii). The rate must be applied to the entitlement payment for the previous fiscal year as if the payment had been calculated using entitlement share growth rates for fiscal years 2018 and 2019 as provided in subsection (4)(b)(ii).

(5) As used in this section, "local government" means a county, a consolidated local government, an incorporated city, and an incorporated town. A local government does not include a tax increment financing district provided for in subsection (8). The county or consolidated local government is responsible for making an allocation from the county's or consolidated local government's share of the entitlement share pool to each special district within the county

or consolidated local government in a manner that reasonably reflects each special district's loss of revenue sources for which reimbursement is provided in this section. The allocation for each special district that existed in 2002 must be based on the relative proportion of the loss of revenue in 2002.

(6) (a) The entitlement share pools calculated in this section, the amounts distributed under 15-1-123(4) for local governments, the funding provided for in subsection (8) of this section, and the amounts distributed under 15-1-123(5) for tax increment financing districts are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local governments.

(b) (i) The growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. The growth factor in the entitlement share must be calculated separately for:

- (A) counties;
- (B) consolidated local governments; and
- (C) incorporated cities and towns.

(ii) In each fiscal year, the growth amount for counties must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each county's percentage of the prior fiscal year entitlement share pool for all counties; and

(B) 50% of the growth amount must be allocated based upon the percentage that each county's population bears to the state population not residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each consolidated local government's percentage of the prior fiscal year entitlement share pool for all consolidated local governments; and

(B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local government's population bears to the state's total population residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each incorporated city's or town's percentage of the prior fiscal year entitlement share pool for all incorporated cities and towns; and

(B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's population bears to the state's total population residing within incorporated cities and towns as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(v) In each fiscal year, the amount of the entitlement share pool before the growth amount or adjustments made under subsection (7) are applied is to be distributed to each local government in the same manner as the entitlement share pool was distributed in the prior fiscal year.

(7) (a) If the legislature enacts a reimbursement provision that is to be distributed pursuant to this section, the department shall determine the reimbursement amount as provided in the enactment and add the appropriate amount to the entitlement share distribution under this section. The total

entitlement share distributions in a fiscal year, including distributions made pursuant to this subsection, equal the local fiscal year entitlement share pool. The ratio of each local government's distribution from the entitlement share pool must be recomputed to determine each local government's ratio to be used in the subsequent year's distribution determination under subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A).

(b) For fiscal year 2018 and thereafter, the growth rate provided for in subsection (4) does not apply to the portion of the entitlement share pool attributable to the reimbursement provided for in 15-1-123(1) and (2). The department shall calculate the portion of the entitlement share pool attributable to the reimbursement in 15-1-123(1) and (2), including the application of the growth rate in previous fiscal years, for counties, consolidated local governments, and cities and, for fiscal year 2018 and thereafter, apply the growth rate for that portion of the entitlement share pool as provided in 15-1-123(3).

(c) The growth amount resulting from the application of the growth rate in 15-1-123(3) must be allocated as provided in subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A) of this section.

(8) (a) Except for a tax increment financing district entitled to a reimbursement under 15-1-123(5), if a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any funding. If a tax increment financing district referred to in subsection (8)(b) terminates, then the funding for the district provided for in subsection (8)(b) terminates.

(b) One-half of the payments provided for in this subsection (8)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (8)(a), the entitlement share for tax increment financing districts is as follows:

Flathead	Kalispell - District 2	\$4,638
Flathead	Kalispell - District 3	37,231
Flathead	Whitefish District	148,194
Gallatin	Bozeman - downtown	31,158
Missoula	Missoula - 1-1C	225,251
Missoula	Missoula - 4-1C	30,009

(9) The estimated fiscal year entitlement share pool and any subsequent entitlement share pool for local governments do not include revenue received from tax increment financing districts.

(10) When there has been an underpayment of a local government's share of the entitlement share pool, the department shall distribute the difference between the underpayment and the correct amount of the entitlement share. When there has been an overpayment of a local government's entitlement share, the local government shall remit the overpaid amount to the department.

(11) A local government may appeal the department's estimation of the base component, the entitlement share growth rate, or a local government's allocation of the entitlement share pool, according to the uniform dispute review procedure in 15-1-211.

(12) (a) Except as provided in 2-7-517, a payment required pursuant to this section may not be offset by a debt owed to a state agency by a local government in accordance with Title 17, chapter 4, part 1.

(b) A payment required pursuant to this section must be withheld if a local government:

(i) fails to meet a deadline established in 2-7-503(1), 7-6-611(2), 7-6-4024(3), or 7-6-4036(1); and

(ii) fails to remit any amounts collected on behalf of the state as required by 15-1-504 or as otherwise required by law within 45 days of the end of a month.

(c) A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:

(i) file a financial report required by 15-1-504;

(ii) remit any amounts collected on behalf of the state as required by 15-1-504; or

(iii) remit any other amounts owed to the state or another taxing jurisdiction.

(d) If the department of revenue receives notice from the attorney general that a county has failed to comply with the reporting requirements of 41-3-210(3), a payment required pursuant to this section must be reduced by 2%."

Section 2. Section 41-3-210, MCA, is amended to read:

"41-3-210. County attorney duties – certification – retention of records – reports to attorney general and legislature – attorney general report. (1) (a) The county attorney shall gather all case notes, correspondence, evaluations, interviews, and other investigative materials pertaining to each report from the department or investigation by law enforcement of sexual abuse or sexual exploitation of a child made within the county when the alleged perpetrator of the sexual abuse or sexual exploitation is 12 years of age or older. After a report is made or an investigation is commenced, the following individuals or entities shall provide to the county attorney all case notes, correspondence, evaluations, interviews, and other investigative materials related to the report or investigation:

(i) the department;

(ii) state and local law enforcement; and

(iii) all members of a county or regional interdisciplinary child information and school safety team established under 52-2-211.

(b) The duty to provide records to the county attorney under subsection (1)(a) remains throughout the course of an investigation, an abuse and neglect proceeding conducted pursuant to this part, or the prosecution of a case involving the sexual abuse of a child or sexual exploitation of a child.

(c) Upon receipt of a report from the department, as required in 41-3-202, that includes an allegation of sexual abuse of a child or sexual exploitation of a child, the county attorney shall certify in writing to the person who initially reported the information that the county attorney received the report. The certification must include the date the report was received and the age and gender of the alleged victim. If the report was anonymous, the county attorney shall provide the certification to the department. If the report was made to the county attorney by a law enforcement officer, the county attorney is not required to provide the certification.

(2) The county attorney shall retain records relating to the report or investigation, including the certification, case notes, correspondence, evaluations, videotapes, and interviews, for 25 years.

(3) On or before January 1 and June 1 of each year, each county attorney shall report to the attorney general. The report to the attorney general must include, for each report from the department or investigation by law enforcement:

(a) a unique case identifier;

(b) the date that the initial report or allegation was received by the county attorney;

(c) the date any charges were filed;

(d) the date of any decision to decline to prosecute;

(e) if charges are filed against a defendant, whether a conviction was obtained and, if a conviction was obtained, the sentence imposed by the court; and

(f) the number of certifications made as required by subsection (1)(c), including the number of certifications made to the department.

(4) (a) The attorney general shall create a form for county attorneys to use when submitting reports required by subsection (3). The form must allow collection of the information required by subsection (3) on an aggregated, cumulative basis for a 5-year period until charges are filed or a decision is made to decline to prosecute.

(b) The information provided by a county attorney on the forms is confidential criminal justice information as defined in 44-5-103.

(5) If a county attorney fails to report the information required by subsection (3), the attorney general shall provide notice to the county attorney and the county commissioners of that county within 10 days of the missed deadline. If the county attorney does not provide the required information within 30 days of the attorney general's notice, the attorney general shall report as provided in subsection (6)(b).

~~(5)~~(6) The attorney general shall report to:

(a) the law and justice interim committee each year by August 15 and as provided in 5-11-210. The reports must provide:

~~(a)~~(i) aggregated information regarding the status of the cases reported in subsection (3) by the county attorneys, except for those cases pending review of the county attorney or uncharged cases still under investigation, including data on the total number of cases reported;

~~(b)~~(ii) the number of cases declined for prosecution;

~~(c)~~(iii) the number of cases charged;

~~(d)~~(iv) any action in the past fiscal year that the attorney general took under the authority of 2-15-501 based on the reports submitted as required in subsection (3). A report made pursuant to this subsection ~~(5)(d)~~ (6)(a)(iv) may not include the name of the county.

~~(e)~~(v) after consideration of the information provided by the department pursuant to 41-3-211, any county attorney who failed to provide a complete report required by subsection (3); and

(b) the department of revenue each year by August 15. The report must identify, after consideration of the information provided by the department pursuant to 41-3-211, any county that failed to comply with the reporting requirements of subsection (3) of this section by July 1 of the reporting year."

Approved May 1, 2025

CHAPTER NO. 328

[HB 629]

AN ACT REVISING LAWS RELATED TO THE CONNECTION OF A PROPOSED SUBDIVISION TO A COUNTY OR MUNICIPAL WATER OR SEWER SYSTEM; PROVIDING THAT A COUNTY OR MUNICIPAL WATER OR SEWER SYSTEM SHALL ACCEPT A PROPOSED SUBDIVISION'S REQUEST FOR CONNECTION IN CERTAIN CIRCUMSTANCES; DIRECTING AN AMENDMENT TO ARM 17.36.123 TO PROVIDE THAT A PUBLIC WATER SUPPLY AND WASTEWATER SYSTEM ACCEPT A CONNECTION FROM A PROPOSED SUBDIVISION UNDER CERTAIN CIRCUMSTANCES; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Department to amend rule. (1) The department of environmental quality shall amend ARM 17.36.123 to provide that new water supply and sewage disposal facilities in a proposed subdivision must be provided by a connection to a public municipal or county water and/or sewer district water supply or public wastewater system if:

- (a) the proposed subdivision requests the connection;
- (b) a boundary of the subdivision is within 501 to 1,000 feet of any component of the public system; and
- (c) the public system meets the requirements of ARM 17.36.123(2)(a) and (b).

Section 2. Proposed subdivision connection to county water and/or sewer district system. A county water and/or sewer district system shall supply water and sewer services to a subdivision proposed for review under Title 76, chapter 3 or 4, if:

- (1) the proposed subdivision requests the connection;
- (2) a boundary of the subdivision is within 501 to 1,000 feet of any component of the county system; and
- (3) the county system meets the following requirements, as established in administrative rule by the department of environmental quality:
 - (a) the system is approved by the department and is in compliance with Title 75, chapter 6, part 1; and
 - (b) the managing entity of the system certifies that:
 - (i) the system has adequate capacity to meet the needs of the proposed subdivision;
 - (ii) the connections are authorized;
 - (iii) the system is in compliance with applicable department regulations; and
 - (iv) an appropriate water right exists for the connection.

Section 3. Proposed subdivision connection to municipal water or sewer system. A municipal water or sewer system shall supply water and sewer services to a subdivision proposed for review under Title 76, chapter 3 or 4, if:

- (1) the proposed subdivision requests the connection;
- (2) a boundary of the subdivision is within 501 to 1,000 feet of any component of the municipal system; and
- (3) the municipal system meets the following requirements, as established in administrative rule by the department of environmental quality:
 - (a) the system is approved by the department and is in compliance with Title 75, chapter 6, part 1; and
 - (b) the managing entity of the system certifies that:
 - (i) the system has adequate capacity to meet the needs of the proposed subdivision;
 - (ii) the connections are authorized;
 - (iii) the system is in compliance with applicable department regulations; and
 - (iv) an appropriate water right exists for the connection.

Section 4. Codification instruction. (1) [Section 2] is intended to be codified as an integral part of Title 7, chapter 13, part 22, and the provisions of Title 7, chapter 13, part 22, apply to [section 2].

(2) [Section 3] is intended to be codified as an integral part of Title 7, chapter 13, part 43, and the provisions of Title 7, chapter 13, part 43, apply to [section 3].

Section 5. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 329

[HB 631]

AN ACT REVISING LAWS RELATED TO STUDENT DATA PRIVACY TO REMOVE BARRIERS TO POSTSECONDARY OPPORTUNITIES; REVISING A DEFINITION; AMENDING SECTION 20-7-1324, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-7-1324, MCA, is amended to read:

“20-7-1324. Definitions. As used in 20-7-1323 through 20-7-1326, the following definitions apply:

(1) “Deidentified information” means information that cannot be used to identify an individual pupil.

(2) “K-12 online application” means an internet website, online service, cloud computing service, online application, or mobile application that is used primarily for K-12 school purposes and that was designed and is marketed for K-12 school purposes.

(3) (a) “K-12 school purposes” means activities that customarily take place at the direction of a school, teacher, or school district or aid in the administration of school activities, including but not limited to instruction in the classroom or at home, administrative activities, and collaboration between pupils, school personnel, or parents, or that are for the use and benefit of a school.

(b) *The term does not include courses that are provided for the purpose of postsecondary credit or work-based learning courses provided by a work-based learning partner pursuant to 20-7-1510.*

(4) “Operator” means the operator of a K-12 online application who knows or reasonably should know that the application is used primarily for K-12 school purposes.

(5) (a) “Protected information” means personally identifiable information or materials, in any media or format, that describes or otherwise identifies a pupil and that is:

(i) created or provided by a pupil, or the pupil’s parent or legal guardian, to an operator in the course of the pupil’s, parent’s, or legal guardian’s use of the operator’s K-12 online application;

(ii) created or provided by an employee or agent of a school district to an operator in the course of the employee’s or agent’s use of the operator’s K-12 online application; or

(iii) gathered by an operator through the operator’s K-12 online application.

(b) The term includes but is not limited to:

(i) information in the pupil’s educational record or e-mail messages;

(ii) first and last name, home address, telephone number, e-mail address, or other information that allows physical or online contact;

(iii) discipline records, test results, special education data, juvenile dependency records, grades, or evaluations;

(iv) criminal, medical, or health records;

(v) social security number;

(vi) biometric information;

(vii) disability;

- (viii) socioeconomic information;
- (ix) food purchases;
- (x) political affiliation;
- (xi) religious information; or
- (xii) text messages, documents, pupil identifiers, search activity, photos, voice recordings, or geolocation information.

(6) (a) "Pupil records" means:

(i) any information directly related to a pupil that is maintained by a school district; or

(ii) any information acquired directly from a pupil through the use of instructional software or applications assigned to the pupil by a teacher or other school district employee.

(b) The term does not include deidentified information, including aggregated deidentified information used:

(i) by a third party to improve educational products for adaptive learning purposes and for customizing pupil learning;

(ii) to demonstrate the effectiveness of a third party's products in the marketing of those products; or

(iii) for the development and improvement of educational sites, services, or applications.

(7) (a) "Pupil-generated content" means materials created by a pupil, including but not limited to essays, research reports, portfolios, creative writing, music or other audio files, photographs, and account information that enables ongoing ownership of pupil content.

(b) The term does not include pupil responses to a standardized assessment for which pupil possession and control would jeopardize the validity and reliability of that assessment.

(8) "Third party" refers to a provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of pupil records."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 330

[HB 632]

AN ACT REVISING THE COMPENSATION OF MEMBERS OF THE MENTAL DISABILITIES BOARD OF VISITORS, THE BURIAL PRESERVATION BOARD, AND THE MONTANA FACILITY FINANCE AUTHORITY; AMENDING SECTIONS 2-15-211, 22-3-804, AND 90-7-201, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-211, MCA, is amended to read:

"2-15-211. Mental disabilities board of visitors – composition – allocation – compensation. (1) The governor shall appoint a mental disabilities board of visitors.

(2) (a) The board shall consist of six persons who possess qualifications necessary to carry out the responsibilities of the board defined in 53-20-104 and 53-21-104.

(b) The members of the board must meet the following requirements:

(i) one person must possess skills, knowledge, and experience relative to the treatment and welfare of adults with serious disabling mental illnesses;

(ii) one person must possess skills, knowledge, and experience relative to the treatment and welfare of children with serious emotional disturbances;

(iii) one person must possess skills, knowledge, and experience relative to the treatment and welfare of adults with developmental disabilities;

(iv) one person must be a consumer of mental health services or a family member of a consumer of mental health services; and

(v) one person must be a consumer of developmental disabilities services or a family member of a person with developmental disabilities.

(c) The members of the board must also meet the following requirements:

(i) at least one board member must be a professional person in the field of mental health treatment;

(ii) at least one board member must be a professional person in the field of developmental disabilities treatment; and

(iii) no more than three board members may be professional persons in the fields of mental health treatment and developmental disabilities treatment.

(d) A member of the board may not be a full-time agent or employee of the department of public health and human services or a mental health facility affected by Title 53, chapter 20, part 1, and Title 53, chapter 21, part 1, except this prohibition does not affect any employee of a state college or university.

(e) Board members serve for 2-year terms. The terms are staggered so that one-half of the terms expire June 30 of each year.

(3) The mental disabilities board of visitors is attached to the governor for administrative purposes. It may employ staff for the purpose of carrying out its duties as set out in Title 53, chapter 20, part 1, and Title 53, chapter 21, part 1.

(4) Each member of the board is entitled to be paid \$100 for each day in which the member is actually and necessarily engaged in the performance of board duties and is also entitled to be reimbursed for travel, meals, and lodging pursuant to 2-18-501 through 2-18-503."

Section 2. Section 22-3-804, MCA, is amended to read:

"22-3-804. Board – composition – rights – responsibilities.

(1) There is a burial preservation board. The board is composed of:

(a) one representative of each of the federally recognized Indian tribes in Montana, appointed by the governor from a list of up to three nominees provided by each of the respective tribal governments;

(b) one person appointed by the governor from a list of up to three nominees submitted by the Montana state historic preservation officer;

(c) one representative of the Montana archaeological association appointed by the governor from a list of up to three nominees submitted by the Montana archaeological society;

(d) one physical anthropologist appointed by the governor;

(e) one representative of the Montana coroners' association appointed by the governor from a list of up to three nominees submitted by the Montana coroners' association; and

(f) one representative of the public, appointed by the governor, who is not associated with tribal governments; state government; the fields of historic preservation, archaeology, or anthropology; or the Montana coroners' association.

(2) Members of the board shall serve staggered 4-year terms. A vacancy on the board must be filled in the same manner as the original appointment and only for the unexpired portion of the term.

(3) The board shall:

(a) provide for the establishment and maintenance of a registry of burial sites located in the state;

(b) designate the appropriate member or members of the board or a representative or representatives of the board to conduct a field review upon notification of the discovery of human skeletal remains, a burial site, or burial material;

(c) assist interested landowners in the development of agreements with the board for the treatment and disposition, with appropriate dignity, of human skeletal remains and burial material;

(d) mediate, upon application of either party, disputes that may arise between a landowner and known descendants that relate to the treatment and disposition of human skeletal remains and burial material;

(e) assume responsibility for final treatment and disposition of human skeletal remains and burial material if the field review recommendation is not accepted by the board's representatives and the landowner;

(f) establish a nonrefundable application fee, not to exceed \$50, for a permit for scientific analysis of human skeletal remains or burial material from burial sites as provided by 22-3-806;

(g) issue permits authorizing scientific analysis;

(h) accept grants or real or in-kind donations to carry out the purposes of this part;

(i) adopt rules necessary to administer and enforce the provisions of this part; and

(j) perform any other duties necessary to implement the provisions of this part.

(4) The board is allocated to the department of administration for administrative purposes only as prescribed in 2-15-121.

(5) Each member of the board is entitled to be paid ~~\$50~~ \$100 for each day in which the member is actually and necessarily engaged in the performance of board duties and is also entitled to be reimbursed for travel, meals, and lodging pursuant to 2-18-501 through 2-18-503."

Section 3. Section 90-7-201, MCA, is amended to read:

"90-7-201. Authority -- quorum -- mode of action -- expenses. (1) Four members of the authority constitute a quorum for the purpose of conducting business. Action may be taken by the authority upon the affirmative vote of at least four of its members. A vacancy in the membership of the authority does not impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

(2) Each meeting of the authority for any purpose must be open to the public as provided for in Title 2, chapter 3, part 2. Resolutions need not be published or posted.

(3) Each member is entitled to be paid ~~\$50~~ \$100 for each day that the member is actually and necessarily engaged in the performance of board duties plus cost of travel, lodging, and meals as provided in 2-18-501 through 2-18-503."

Section 4. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 5. Effective date. [This act] is effective July 1, 2025.

Approved May 1, 2025

CHAPTER NO. 331

[HB 638]

AN ACT GENERALLY REVISING HUMAN RIGHTS LAWS; PROHIBITING A STATE OR LOCAL GOVERNMENT AGENCY FROM REQUIRING OR REQUESTING A DIVERSITY STATEMENT OR GRANTING ANY PREFERENTIAL TREATMENT BASED ON THE SUBMISSION OF A DIVERSITY STATEMENT; PROVIDING AN EXCEPTION; AND PROVIDING DEFINITIONS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Diversity statements prohibited – exception. (1) A state or local government agency may not require, request, solicit, or compel a person to provide a diversity statement.

(2) A state or local government agency may not grant any form of preferential consideration or treatment to a person who, with or without solicitation from the state or local government agency, provides a diversity statement.

(3) If federal law requires a state or local government agency to accept or require a diversity statement, then the state or local government agency:

(a) may accept the diversity statement only to the extent required under federal law; and

(b) shall limit consideration of the information contained in the diversity statement to the extent necessary to satisfy the requirement under federal law.

(4) Nothing in this section limits or prohibits a state or local government agency from establishing policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination and harassment.

Section 2. Definitions. As used in [sections 1 through 2], unless the context clearly indicates otherwise, the following definitions apply:

(1) “Diversity statement” means a submission, statement, or document that promotes or is intended to promote differential treatment based on an individual’s race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity.

(2) “State or local government agency” means:

(a) any branch, department, office, board, bureau, commission, agency, university unit, college, or other instrumentality of state government; or

(b) a county, city, town, school district, or other unit of local government and any instrumentality of local government.

Section 3. Codification instruction. [Sections 1 through 2] are intended to be codified as a new chapter in Title 49, and the provisions of Title 49 apply to [sections 1 through 2].

Approved May 1, 2025

CHAPTER NO. 332

[HB 642]

AN ACT REVISING PUBLIC NUISANCE LAWS TO PROVIDE THAT CAMPING IN VIOLATION OF AN ORDINANCE OR STATUTE CONSTITUTES A PUBLIC NUISANCE; AND AMENDING SECTION 45-8-111, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 45-8-111, MCA, is amended to read:

“45-8-111. Public nuisance. (1) “Public nuisance” means *any of the following*:

(a) a condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood or by any considerable number of persons. *For the purposes of this subsection (1)(a), camping in violation of an ordinance or statute constitutes a public nuisance.*;

(b) any premises where persons gather for the purpose of engaging in unlawful conduct; or

(c) a condition that renders dangerous for passage any public highway or right-of-way or waters used by the public.

(2) A person commits the offense of maintaining a public nuisance if the person knowingly creates, conducts, or maintains a public nuisance.

(3) Any act that affects an entire community or neighborhood or any considerable number of persons, as specified in subsection (1)(a), is no less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal.

(4) An agricultural or farming operation, a place, an establishment, or a facility or any of its appurtenances or the operation of those things is not or does not become a public nuisance because of its normal operation as a result of changed residential or commercial conditions in or around its locality if the agricultural or farming operation, place, establishment, or facility has been in operation longer than the complaining resident has been in possession or the commercial establishment has been in operation.

(5) Noises resulting from the shooting activities at a shooting range during established hours of operation are not considered a public nuisance.

(6) A person convicted of maintaining a public nuisance shall be fined an amount not to exceed \$500. Each day of the conduct constitutes a separate offense.”

Approved May 1, 2025

CHAPTER NO. 333

[HB 648]

AN ACT REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO NOTIFY COUNTY COMMISSIONERS, SHERIFF'S OFFICES, AND TRIBAL GOVERNMENTS BEFORE THE RELEASE OF A LARGE PREDATOR; AND AMENDING SECTION 87-1-217, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-1-217, MCA, is amended to read:

“87-1-217. Policy for management of large predators – legislative intent. (1) In managing large predators, the primary goals of the department, in the order of listed priority, are to:

(a) protect humans, livestock, and pets;

(b) preserve and enhance the safety of the public during outdoor recreational and livelihood activities; and

(c) preserve citizens' opportunities to hunt large game species.

(2) With regard to large predators, it is the intent of the legislature that the specific provisions of this section concerning the management of large predators will control the general supervisory authority of the department regarding the management of all wildlife.

(3) For the management of wolves in accordance with the priorities established in subsection (1), the department may use lethal action to take problem wolves that attack livestock if the state objective for breeding pairs has been met. For the purposes of this subsection, “problem wolves” means any individual wolf or pack of wolves with a history of livestock predation.

(4) The department shall work with the livestock loss board and the United States department of agriculture wildlife services to establish the conditions under which carcasses or parts of carcasses from wolves or mountain lions are retrieved during management activities and when those carcasses or parts of carcasses are made available to the livestock loss board for sale or auction pursuant to 2-15-3113.

(5) (a) The department shall ensure that county commissioners and tribal governments in areas that have identifiable populations of large predators have the opportunity for consultation and coordination with state and federal agencies prior to state and federal policy decisions involving large predators and large game species.

(b) *The department shall provide verbal and written notice to the county commissioners, sheriff’s office, and tribal government located within the county or tribal government boundaries where a large predator is to be relocated:*

(i) on the finalization of an annual plan to relocate a large predator into a county or tribal government boundary other than the one it was captured in;

(ii) on the finalization of a change to a plan to relocate a large predator into a county or tribal government boundary other than the one it was captured in;

(iii) within 24 hours of the capture of a large predator if it will be relocated into a county or tribal government boundary other than the one it was captured in; and

(iv) within 24 hours of the relocation of a large predator if the relocation site has been previously approved by the commission for relocation of bears.

(6) As used in this section:

(a) “consultation” means to actively provide information to a county or tribal government regarding proposed policy decisions on matters that may have a harmful effect on agricultural production or livestock operations or that may pose a risk to human health or safety in that county or on those tribal lands and to seek information and advice from counties or tribal governments on these matters;

(b) “large game species” means deer, elk, mountain sheep, moose, antelope, and mountain goats; and

(c) “large predators” means bears, mountain lions, and wolves.”

Section 2. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Approved May 1, 2025

CHAPTER NO. 334

[HB 650]

AN ACT AUTHORIZING STATE BONDING FOR BROADBAND SERVICES; REVISING THE DEFINITION OF PROJECT; AMENDING SECTION 90-5-101, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 90-5-101, MCA, is amended to read:

“90-5-101. Definitions. As used in this part, unless the context otherwise requires, the following definitions apply:

(1) “Agricultural enterprises” includes but is not limited to producing, warehousing, storing, fattening, treating, handling, distributing, or selling farm products or livestock.

(2) “Bonds” means bonds, refunding bonds, notes, or other obligations issued by a municipality or county under the authority of this part, including without limitation short-term bonds or notes issued in anticipation of the issuance of long-term bonds or notes.

(3) “Electric energy generation facility” means any combination of a physically connected generator or generators, associated prime movers, and other associated property and transmission facilities and upgrades and improvements of transmission facilities, including appurtenant land and improvements and personal property, that are normally operated together to produce and transfer electric power. The term includes but is not limited to generating facilities that produce and transfer electricity from coal-fired steam turbines, oil or gas turbines, wind turbines, solar power sources, fuel cells, or turbine generators that are driven by falling water.

(4) “Family services provider” means organizations, including nonprofit corporations, that provide human services for children and adults, including but not limited to early care services for children, youth services, health services, social services, habilitative services, rehabilitative services, preventive care, and supportive services, and training, educational, and referral activities in support of human services.

(5) “Governing body” means the board or body in which the general legislative powers of the municipality or county are vested.

(6) “Higher education facilities” means any real or personal properties required or useful for the operation of an institution of higher education.

(7) “Institution of higher education” means any private, nonprofit corporation or institution within the state of Montana:

(a) authorized to provide or operate educational facilities; and

(b) providing a program of education beyond the high school level.

(8) “Mortgage” means a mortgage or deed of trust or other security device.

(9) “Municipality” means any incorporated city or town in the state.

(10) “Project” means:

(a) any land, any building or other improvement, and any other real or personal property considered necessary in connection with the improvement, whether or not now in existence, that must be suitable for use for commercial, manufacturing, agricultural, or industrial enterprises;

(b) recreation or tourist facilities;

(c) local, state, and federal governmental facilities;

(d) multifamily housing, hospitals, long-term care facilities, community-based facilities for individuals who are persons with developmental disabilities as defined in 53-20-102, or medical facilities;

(e) higher education facilities;

(f) electric energy generation facilities;

(g) family services provider facilities;

(h) any facilities that are used or considered necessary to create or produce any intangible item, as defined in section 197(d)(1)(C)(iii) of the Internal Revenue Code, 26 U.S.C. 197(d)(1)(C)(iii), including any patent, copyright, formula, process, design, pattern, knowledge, format, or other similar intangible item;

(i) the production of energy using an alternative renewable energy source as defined in 15-6-225; and

(j) *providing broadband service exclusively to unserved areas and underserved areas as defined in 90-1-602 or to locations where broadband is available only by satellite technologies; and*

(k) any combination of projects in subsections (10)(a) through ~~(10)(i)~~ (10)(j).”

Section 2. Effective date. [This act] is effective January 1, 2028.

Approved May 1, 2025

CHAPTER NO. 335

[HB 651]

AN ACT ALLOWING FOR THE USE OF TEMPORARY DOOR LOCKS DURING SHELTER-IN-PLACE OR EMERGENCY LOCKDOWN SITUATIONS; PROVIDING AN EXCEPTION TO THE FIRE CODE; PROVIDING A DEFINITION; AMENDING SECTION 50-61-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Temporary door locks – limited exception to fire code. (1) A temporary door locking device may be used in a public building as defined in 50-60-101 to secure a door to a room that may be used during a shelter-in-place or emergency lockdown situation.

(2) A temporary door locking device may be used to secure a fire exit, hallway, corridor, or entranceway leading to a fire exit if the temporary door locking device:

(a) is used only during a shelter-in-place or emergency lockdown situation; and

(b) is approved by the local fire department, law enforcement agency, or code official that has jurisdiction over the building.

(3) As used in this section, “temporary door locking device” means a device that prevents a door from opening, provided that the device:

(a) is meant only for temporary emergency use during an active threat situation;

(b) can be engaged or removed without opening the door;

(c) can be engaged and removed from the egress side of the door without the use of a key and removed from the ingress side of the door with the use of a key or other credential;

(d) does not modify the door closer, panic hardware, or fire exit hardware;

(e) is not permanently mounted to the door assembly, although individual parts of the device assembly, including but not limited to bolts, stops, brackets, and pins that do not prevent normal function of the door, may be permanently mounted;

(f) is installed at a height not to exceed 48 inches above the floor;

(g) does not affect the fire rating of the door and complies with national fire protection association fire rating standards;

(h) can be removed with a single operation when engaged;

(i) is applied only for a finite period of time during an emergency situation, including but not limited to a shelter-in-place or emergency lockdown situation or drill; and

(j) is integrated into building safety plans, drills, and training programs that include inservice training on the use of the device for building staff and first responders.

Section 2. Section 50-61-106, MCA, is amended to read:

“50-61-106. Unlawful to obstruct fire exit. *It Except as provided in [section 1], it is unlawful to obstruct in any manner any fire exit, or any hallway, corridor, or entranceway leading to a fire exit, required by rules adopted by the department of justice.”*

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 50, chapter 61, part 1, and the provisions of Title 50, chapter 61, part 1, apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 336

[HB 655]

AN ACT PROHIBITING DISCRIMINATORY ACTION AGAINST A PERSON PROVIDING ADOPTION OR FOSTER CARE SERVICES BASED ON THE PERSON'S RELIGIOUS BELIEF; PROVIDING DEFINITIONS; PROVIDING REMEDIES; AND PROVIDING A STATUTE OF LIMITATIONS.

WHEREAS, the State of Montana seeks to place a child in a safe, loving, and supportive home whenever the state is required to place a child with an adoptive or foster family; and

WHEREAS, adoption and foster care agencies in Montana assist families with adoption and foster parent placements of children; and

WHEREAS, the adoption agencies and foster care providers of this state represent diverse organizations and groups, some of which are faith-based and some of which are nonfaith-based; and

WHEREAS, children in need of placement services benefit from having as many adoption agencies and foster care providers as possible because the more agencies and providers that take part in placement services, the greater the likelihood that a child will find a permanent placement; and

WHEREAS, the United States Supreme Court in *Fulton v. City of Philadelphia*, 141 S. Ct. 1868 (2021), recognized the benefits of having more and not fewer adoption agencies and foster care providers, stating that “[m]aximizing the number of foster families and minimizing liability are important goals, but the City fails to show that granting [Catholic Social Services] an exception will put those goals at risk. If anything, including CSS in the program seems likely to increase, not reduce, the number of available foster parents”; and

WHEREAS, children and families benefit greatly from the adoption and foster care services provided by faith-based and nonfaith-based child placing agencies; and

WHEREAS, faith-based organizations and groups have a lengthy and distinguished history of providing adoption and foster care services in Montana; and

WHEREAS, private child-placing agencies and individuals, including faith-based child-placing agencies and individuals, have the right to free exercise of religion under both the state and federal constitutions, which, under well-settled principles of constitutional law, includes the freedom to abstain from conduct that conflicts with an agency's sincerely held religious beliefs; and

WHEREAS, ensuring that faith-based child-placing agencies can continue to provide adoption and foster care services will benefit the children and families who receive those services; and

WHEREAS, the United States Constitution allows all adoption and foster care providers to operate according to their beliefs without fear of unjust government punishment; and

WHEREAS, in the unanimous decision in *Fulton v. City of Philadelphia*, the U.S. Supreme Court made clear that state governments violate the requirements of religious neutrality when they undermine religious beliefs or practices and that the “[g]overnment fails to act neutrally when it proceeds in a manner intolerant of religious beliefs or restricts practices because of their religious nature”; and

WHEREAS, the U.S. Supreme Court in *Espinoza v. Montana Dept. of Revenue*, 140 S. Ct. 2246, 2276 (2020) (Gorsuch, J., concurring), stated that “[t]he Constitution forbids laws that prohibit the free exercise of religion. That guarantee protects not just the right to be a religious person, holding beliefs inwardly and secretly; it also protects the right to act on those beliefs outwardly and publicly [italics removed]”; and

WHEREAS, the *Espinoza* Court noted that the U.S. Supreme Court has “long recognized the importance of protecting religious actions, not just religious status” and, quoting *Cantwell v. Connecticut*, 310 U.S. 296, 3030 (1940), state that “the First Amendment protects the ‘freedom to act’ as well as the ‘freedom to believe’”; and

WHEREAS, in *Thomas v. Review Bd. of Ind. Employment Security Div.*, 450 U.S. 707, 717-718 (1981), the U.S. Supreme Court held that the government violates the Free Exercise Clause whenever it “conditions receipt of an important benefit upon conduct prescribed by a religious faith, or... denies such a benefit because of conduct mandated by a religious belief, thereby putting substantial pressure on an adherent to modify his behavior and to violate his beliefs.”

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 4] the following definitions apply:

(1) “Adoption or foster care” or “adoption or foster care service” means social services provided to or on behalf of children, including:

- (a) promoting foster parenting;
- (b) providing foster homes, residential care, group homes, or temporary group shelters for children;
- (c) recruiting foster parents;
- (d) placing children in foster homes;
- (e) licensing or certifying foster homes;
- (f) promoting adoption or recruiting adoptive parents;
- (g) assisting adoptions or supporting adoptive families;
- (h) performing or assisting home studies;
- (i) assisting kinship guardianships or kinship caregivers;
- (j) providing family preservation services;
- (k) providing family support services; and
- (l) providing temporary family reunification services.

(2) “Discriminatory action” means an action taken by the state government to:

(a) alter in any way the tax treatment of, cause any tax, penalty, or payment to be assessed against, or deny, delay, revoke, or otherwise make unavailable an exemption from taxation to a person;

(b) disallow, deny, or otherwise make unavailable a deduction for state tax purposes of any charitable contribution made to or by a person;

(c) withhold, reduce, exclude, terminate, materially alter the terms or conditions of, or otherwise make unavailable or deny:

(i) any state grant, contract, subcontract, cooperative agreement, guarantee, loan, scholarship, or other similar benefit from or to a person;

(ii) any entitlement or benefit under a state benefit program from or to a person; or

(iii) any license, certification, accreditation, custody award or agreement, diploma, grade, recognition, or other similar benefit, position, or status from or to a person;

(d) impose, levy, or assess a monetary fine, fee, penalty, damages award, or injunction; or

(e) refuse to hire or promote, force to resign, fire, demote, sanction, discipline, adversely alter the terms or conditions of employment, or retaliate or take other adverse employment action against a person employed or commissioned by the state government.

(3) "Person" means:

(a) a natural person, acting in the person's individual capacity or in the person's capacity as a member, officer, owner, volunteer, employee, manager, religious leader, clergy, or minister of an entity described in this subsection (3);

(b) a religious organization;

(c) a sole proprietorship, partnership, trust, closely held corporation, or other closely held entity; or

(d) a cooperative, venture, or enterprise comprised of two or more individuals or entities described in this subsection (3) regardless of nonprofit or for-profit status.

(4) "Religious organization" means:

(a) a house of worship, including but not limited to churches, synagogues, shrines, mosques, and temples;

(b) a religious group, corporation, association, school or educational institution, ministry, order, society, or similar entity, regardless of whether it is integrated or affiliated with a church or other house of worship; or

(c) an officer, owner, employee, manager, religious leader, clergy, or minister of an entity or organization described in this subsection (4).

(5) "State benefit program" means a program administered, controlled, or funded by the state or by an agent on behalf of the state providing cash, payments, grants, contracts, loans, or in-kind assistance.

(6) "State government" means:

(a) the state or political subdivision of the state;

(b) an agency of the state or of a political subdivision of the state, including a department, bureau, board, commission, council, or court;

(c) a city, county, urban-county government, charter county government, unified local government, consolidated local government, special district, or any combination of these;

(d) a person acting under color of state law; or

(e) a private person suing under or attempting to enforce a law, rule, or regulation adopted by the state or a political subdivision of the state.

Section 2. Discriminatory acts prohibited in adoption or foster care services. (1) The state government may not take a discriminatory action against a person that advertises, provides, or facilitates adoption or foster care services wholly or partially on the basis that the person:

(a) has provided or declines to provide an adoption or foster care service or related service based on or in a manner consistent with the person's sincerely held religious belief; or

(b) maintains policies and procedures in accordance with the person's sincerely held religious belief.

(2) (a) Except as provided, in subsection (2)(b), the state government may not take a discriminatory action against a person whom the state grants custody of a foster or adoptive child or who seeks from the state the custody of a foster or adoptive child wholly or partially on the basis that the person guides, instructs, or raises a child or intends to guide, instruct, or raise a child based on or in a manner consistent with the person's sincerely held religious belief.

(b) The state government may consider whether a person shares the same religion or faith tradition as a foster or adoptive child when considering placement of the child in order to prioritize placement with a person of the same religion or faith tradition.

Section 3. Remedies – statute of limitations. (1) A person may assert a violation of [section 2] as a claim against the state government in a judicial or administrative proceeding or as a defense in a judicial or administrative proceeding without regard to whether the proceeding is brought by or in the name of the state government, a private person, or another party.

(2) An action alleging a violation of [section 2]:

(a) must be brought no later than 2 years after the date the person knew or should have known that a discriminatory action was taken against the person; and

(b) may be commenced, and relief may be granted, without regard to whether the person bringing the action has sought or exhausted available administrative remedies.

(3) A person who successfully asserts a claim or defense for a violation of [section 2] may recover:

- (a) declaratory or injunctive relief;
- (b) compensatory damages;
- (c) reasonable attorney fees and costs; and
- (d) any other appropriate relief.

Section 4. Construction. (1) [Sections 1 through 4] must be construed in favor of a broad protection of free exercise of religious beliefs to the maximum extent permitted by the state and federal constitutions.

(2) The protection of free exercise of religious beliefs afforded by [sections 1 through 4] are in addition to the protections provided under federal law, state law, and the state and federal constitutions. Nothing in [sections 1 through 4] may be construed to:

(a) preempt or repeal any state or local law that is equally or more protective of free exercise of religious beliefs;

(b) narrow the meaning or application of any state or local law protecting free exercise of religious beliefs; or

(c) prevent the state government from providing, either directly or through an individual or entity not seeking protection under [sections 1 through 4] any benefit or service authorized under state law.

Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as a new part in Title 42, chapter 7, and the provisions of Title 42, chapter 7, apply to [sections 1 through 4].

Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved May 1, 2025

CHAPTER NO. 337

[HB 656]

AN ACT REVISING THE USE OF THE EMPLOYMENT SECURITY ACCOUNT; TRANSFERRING THE OFFICE OF COMMUNITY SERVICE TO THE DEPARTMENT OF LABOR AND INDUSTRY; AMENDING THE EMPLOYMENT SECURITY ACCOUNT TO INCLUDE FUNDING OF THE OFFICE OF COMMUNITY SERVICE, COMMISSION FOR HUMAN RIGHTS, EDUCATION PROGRAMS, AND REENTRY PROGRAMS AS AN ALLOWABLE USE; AND AMENDING SECTIONS 39-51-409 AND 90-14-103, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-51-409, MCA, is amended to read:

“39-51-409. Employment security account. (1) There is an account in the state special revenue fund called the employment security account.

(2) Money deposited in the employment security account may be appropriated to the department for payment of:

(a) unemployment insurance benefits;
(b) expenses incurred in the administration of the unemployment insurance program;

(c) expenses incurred in collecting money deposited in the account;

(d) expenses incurred for the employment offices established in 39-51-307, including expenses for providing services to the business community;

(e) expenses incurred for the apprenticeship and training program and for the administration of 39-71-319;

(f) expenses for displaced homemaker programs provided for under 39-7-305;

(g) expenses for department research and analysis functions that provide employment, wage, and economic data;

(h) expenses for department functions pertaining to wage and hour laws, prevailing wages, and collective bargaining; ~~and~~

(i) principal, interest, and redemption premium on employment security revenue bonds authorized in section 5, Chapter 435, Laws of 2009;;

(j) *expenses incurred in the administration of the office of community service established in 90-14-103;*

(k) *expenses incurred in the administration and enforcement of state and federal laws that prohibit unlawful discrimination; and*

(l) *expenses incurred in the administration of education programs, grants for education programs, and reentry programs administered by the department.*

(3) Except as provided in sections 6 and 12, Chapter 435, Laws of 2009, the department may transfer funds from the employment security account to the unemployment insurance fund account provided for in 39-51-402 upon receiving approval from the budget director that the transfer will not decrease the money in the account below the level appropriated by the legislature to provide for the employment services programs identified in subsection (2).

(4) The department may transfer appropriation authority in employment services programs between the federal special revenue and the state special revenue fund types.”

Section 2. Section 90-14-103, MCA, is amended to read:

“90-14-103. Office of community service. (1) There is an office of community service, which is headed by a director and established in the ~~office of the governor~~ department of labor and industry.

(2) The purpose of this office is to:

(a) renew the ethic of civic responsibility in the state;
(b) encourage the citizens of the state, regardless of age or income, to engage in full-time or part-time service to the state;

(c) call young people to serve in projects that will benefit the state and improve their life chances through the acquisition of literacy, job skills, and interpersonal skills;

(d) build on the existing organizational framework of state and local governmental entities to expand full-time and part-time service opportunities in a wide variety of programs for all citizens, particularly youth and older Montanans;

(e) involve participants in activities that would not otherwise be performed by employed workers; and

(f) establish programs to accomplish labor-intensive improvements to public or low-income properties or to provide services for the benefit of the state, its communities, and its people through service contracts that specify the work to be performed.

(3) The director must be appointed by the governor, after consultation with the commission. The director serves at the pleasure of the governor.

(4) The director, ~~shall,~~ with the advice of the commission; *and in coordination with the department, shall:*

(a) assist the governor in the planning, coordination, operation, and evaluation of programs within state government or under grants, donations, bequests, or other resources received by and administered through state government for Montana community services;

(b) *integrate and develop state plans for all services provided under this part, including but not limited to the office of public instruction's service learning program, the Montana university system's innovative projects, the department of military affairs' service involvement, and other community and volunteer service programs; and*

~~(5)(c) The director is responsible for the submission of~~ *submit* applications for federal grants and for funding from any other sources for the creation or operation of volunteer projects. The director shall ensure accountability for all resources received.

~~(6) The director, together with the commission, shall integrate and develop state plans for all services provided under this part, including but not limited to the office of public instruction's service learning program, the Montana university system innovative projects, the department of military affairs' service involvement, and other community and volunteer service programs."~~

Approved May 1, 2025

CHAPTER NO. 338

[HB 664]

AN ACT REVISING THE NUTRIENT CRITERIA FOR MONTANA WATER QUALITY STANDARDS; REMOVING REFERENCES TO NUMERIC NUTRIENT STANDARDS IN ADMINISTRATIVE RULE; REPEALING BASE NUMERIC NUTRIENT STANDARDS; PROVIDING DIRECTIONS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY; PROVIDING RULEMAKING AUTHORITY; ELIMINATING THE NUTRIENT WORK GROUP; AMENDING SECTION 75-5-103, MCA; REPEALING SECTION 75-5-321, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the objective of the Clean Water Act is to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters”; and

WHEREAS, the Environmental Protection Agency (EPA) authorized the Montana Department of Environmental Quality (DEQ) to regulate most water quality programs in the state; and

WHEREAS, beginning in 1998, the EPA “strongly encouraged” numeric nutrient standards, which the DEQ adopted in 2015; and

WHEREAS, from 2011 through 2014, members of the Nutrient Work Group and the public endeavored to develop rules to govern numeric nutrient criteria, rules, and guidance. The work involved interactions between the DEQ and EPA on the proposed rules, variances, and guidance and led to the adoption of rule packages by the Board of Environmental Review. Even though the EPA had clarity on the proposals before they were finalized and had indicated its support for Montana’s approach, the agency adopted a rule that made it impossible for Montana’s rules and variances from working as intended. The EPA never approved a general variance for private sector dischargers; and

WHEREAS, these numeric nutrient standards were not explicitly required by law, and many states have not adopted numeric nutrient standards for all of their bodies of water; and

WHEREAS, the 2021 Montana Legislature, recognizing this, chose to re-establish narrative nutrient standards in Senate Bill 358; and

WHEREAS, the Nutrient Work Group, which included participants from the DEQ and EPA, worked diligently to assess the viability of a general variance to allow compliance with numeric standards and to develop narrative standards without widespread economic consequences, but to no avail; and

WHEREAS, the failure to adopt narrative nutrient standards means that Montana again operates under the old, unattainable numeric nutrient standards; and

WHEREAS, Montana’s numeric nutrient standards and variances provided for in law and in ARM 17.30.507, 17.30.516, 17.30.602, 17.30.619, 17.30.622, 17.30.623, 17.30.624, 17.30.625, 17.30.626, 17.30.627, 17.30.628, 17.30.629, 17.30.660, 17.30.702, 17.30.715, and 17.30.1388 have subsequently proven to be unachievable and burdensome, especially for Montana’s municipal wastewater treatment systems.

Be it enacted by the Legislature of the State of Montana:

Section 1. Department to amend rules. The department shall amend ARM 17.30.507, 17.30.516, 17.30.602, 17.30.619, 17.30.622, 17.30.623, 17.30.624, 17.30.625, 17.30.626, 17.30.627, 17.30.628, 17.30.629, 17.30.702, and 17.30.715 to delete all references to department circular DEQ-12A, base numeric nutrient standards, and nutrient standards variances.

Section 2. Directions to department. The department shall:

(1) repeal department circular DEQ-12A Montana base numeric nutrient standards as adopted into administrative rule on August 8, 2014; and

(2) amend all guidance, assessment methods, total maximum daily load calculations, and other policies and procedures to eliminate reference to or reliance on department circular DEQ-12A.

Section 3. Section 75-5-103, MCA, is amended to read:

“75-5-103. (Temporary) Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) “Associated supporting infrastructure” means:

(a) electric transmission and distribution facilities;

(b) pipeline facilities;

(c) aboveground ponds and reservoirs and underground storage reservoirs;

(d) rail transportation;
(e) aqueducts and diversion dams;
(f) devices or equipment associated with the delivery of an energy form or product produced at an energy development project; or
(g) other supporting infrastructure, as defined by department rule, that is necessary for an energy development project.

(2) "Board" means the board of environmental review provided for in 2-15-3502.

(3) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or other wastes, creating a hazard to human health.

(4) "Council" means the water pollution control advisory council provided for in 2-15-2107.

(5) (a) "Currently available data" means data that is readily available to the department at the time a decision is made, including information supporting its previous lists of water bodies that are threatened or impaired.

(b) The term does not mean new data to be obtained as a result of department efforts.

(6) "Degradation" means a change in water quality that lowers the quality of high-quality waters for a parameter. The term does not include those changes in water quality determined to be nonsignificant pursuant to 75-5-301(5)(c).

(7) "Department" means the department of environmental quality provided for in 2-15-3501.

(8) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and includes sewage systems and treatment works.

(9) "Effluent standard" means a restriction or prohibition on quantities, rates, and concentrations of chemical, physical, biological, and other constituents that are discharged into state waters.

(10) "Energy development project" means each plant, unit, or other development and associated developments, including any associated supporting infrastructure, designed for or capable of:

- (a) generating electricity;
- (b) producing gas derived from coal;
- (c) producing liquid hydrocarbon products;
- (d) refining crude oil or natural gas;
- (e) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive pursuant to Title 15, chapter 70, part 5; or
- (f) transmitting electricity through an electric transmission line with a design capacity of equal to or greater than 50 kilovolts.

(11) "Existing uses" means those uses actually attained in state waters on or after July 1, 1971, whether or not those uses are included in the water quality standards.

(12) "High-quality waters" means all state waters, except:

(a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by the department's classification rules; and

(b) surface waters that:

(i) are not capable of supporting any one of the designated uses for their classification; or

(ii) have zero flow or surface expression for more than 270 days during most years.

(13) "Impaired water body" means a water body or stream segment for which sufficient credible data shows that the water body or stream segment is failing to achieve compliance with applicable water quality standards.

(14) "Industrial waste" means a waste substance from the process of business or industry or from the development of any natural resource, together with any sewage that may be present.

(15) "Interested person" means a person who has a real property interest, a water right, or an economic interest that is or may be directly and adversely affected by the department's preliminary decision regarding degradation of state waters, pursuant to 75-5-303. The term includes a person who has requested authorization to degrade high-quality waters.

(16) "Load allocation" means the portion of a receiving water's loading capacity that is allocated to one of its existing or future nonpoint sources or to natural background sources.

(17) "Loading capacity" means the mass of a pollutant that a water body can assimilate without a violation of water quality standards. For pollutants that cannot be measured in terms of mass, it means the maximum change that can occur from the best practicable condition in a surface water without causing a violation of the surface water quality standards.

(18) "Local department of health" means the staff, including health officers, employed by a county, city, city-county, or district board of health.

(19) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium, cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and zinc.

(20) "Mixing zone" means an area established in a permit or final decision on nondegradation issued by the department where water quality standards may be exceeded, subject to conditions that are imposed by the department and that are consistent with the rules adopted by the department.

~~(21) "Nutrient work group" means an advisory work group, convened by the department, representing publicly owned and privately owned point sources of pollution, nonpoint sources of pollution, and other interested parties that will advise the department on nutrient standards, the implementation of those standards, and associated economic impacts.~~

(22)(21) "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

(23)(22) "Outstanding resource waters" means:

(a) state surface waters located wholly within the boundaries of areas designated as national parks or national wilderness areas as of October 1, 1995; or

(b) other surface waters or ground waters classified by the department under the provisions of 75-5-316 and approved by the legislature.

(24)(23) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a point source.

(25)(24) "Parameter" means a physical, biological, or chemical property of state water when a value of that property affects the quality of the state water.

(26)(25) "Person" means the state, a political subdivision of the state, institution, firm, corporation, partnership, individual, or other entity and includes persons resident in Canada.

(27)(26) "Point source" means a discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft, from which pollutants are or may be discharged.

~~(28)~~(27) (a) "Pollution" means:

(i) contamination or other alteration of the physical, chemical, or biological properties of state waters that exceeds that permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor; or

(ii) the discharge, seepage, drainage, infiltration, or flow of liquid, gaseous, solid, radioactive, or other substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

(b) The term does not include:

(i) a discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution discharge permit rules adopted by the department under this chapter;

(ii) activities conducted under this chapter that comply with the conditions imposed by the department in short-term authorizations pursuant to 75-5-308;

(iii) contamination of ground water within the boundaries of an underground mine using in situ coal gasification and operating in accordance with a permit issued under 82-4-221.

(c) Contamination referred to in ~~subsections (28)(b)(iii) and (28)(b)(iv)~~ *subsection (27)(b)(iii)* does not require a mixing zone.

~~(29)~~(28) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings or animals, together with ground water infiltration and surface water present.

~~(30)~~(29) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other wastes to an ultimate disposal point.

~~(31)~~(30) "Standard of performance" means a standard adopted by the department for the control of the discharge of pollutants that reflects the greatest degree of effluent reduction achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, when practicable, a standard permitting no discharge of pollutants.

~~(32)~~(31) (a) "State waters" means a body of water, irrigation system, or drainage system, either surface or underground.

(b) The term does not apply to:

(i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or

(ii) irrigation waters or land application disposal waters when the waters are used up within the irrigation or land application disposal system and the waters are not returned to state waters.

~~(33)~~(32) "Sufficient credible data" means chemical, physical, or biological monitoring data, alone or in combination with narrative information, that supports a finding as to whether a water body is achieving compliance with applicable water quality standards.

~~(34)~~(33) "Threatened water body" means a water body or stream segment for which sufficient credible data and calculated increases in loads show that the water body or stream segment is fully supporting its designated uses but threatened for a particular designated use because of:

(a) proposed sources that are not subject to pollution prevention or control actions required by a discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or

(b) documented adverse pollution trends.

(35)(34) “Total maximum daily load” or “TMDL” means the sum of the individual waste load allocations for point sources and load allocations for both nonpoint sources and natural background sources established at a level necessary to achieve compliance with applicable surface water quality standards.

(36)(35) “Treatment works” means works, including sewage lagoons, installed for treating or holding sewage, industrial wastes, or other wastes.

(37)(36) “Waste load allocation” means the portion of a receiving water’s loading capacity that is allocated to one of its existing or future point sources.

(38)(37) “Water quality protection practices” means those activities, prohibitions, maintenance procedures, or other management practices applied to point and nonpoint sources designed to protect, maintain, and improve the quality of state waters. Water quality protection practices include but are not limited to treatment requirements, standards of performance, effluent standards, and operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from material storage.

(39)(38) “Water well” means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of ground water.

(40)(39) “Watershed advisory group” means a group of individuals who wish to participate in an advisory capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development of TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in an advisory capacity as provided in 75-5-704.

75-5-103. (Effective on occurrence of contingency) Definitions.

Unless the context requires otherwise, in this chapter the following definitions apply:

(1) “Associated supporting infrastructure” means:

- (a) electric transmission and distribution facilities;
- (b) pipeline facilities;
- (c) aboveground ponds and reservoirs and underground storage reservoirs;
- (d) rail transportation;
- (e) aqueducts and diversion dams;
- (f) devices or equipment associated with the delivery of an energy form or product produced at an energy development project; or
- (g) other supporting infrastructure, as defined by department rule, that is necessary for an energy development project.

(2) “Board” means the board of environmental review provided for in 2-15-3502.

(3) “Contamination” means impairment of the quality of state waters by sewage, industrial wastes, or other wastes, creating a hazard to human health.

(4) “Council” means the water pollution control advisory council provided for in 2-15-2107.

(5) (a) “Currently available data” means data that is readily available to the department at the time a decision is made, including information supporting its previous lists of water bodies that are threatened or impaired.

(b) The term does not mean new data to be obtained as a result of department efforts.

(6) “Degradation” means a change in water quality that lowers the quality of high-quality waters for a parameter. The term does not include those changes in water quality determined to be nonsignificant pursuant to 75-5-301(5)(c).

(7) “Department” means the department of environmental quality provided for in 2-15-3501.

(8) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and includes sewage systems and treatment works.

(9) "Effluent standard" means a restriction or prohibition on quantities, rates, and concentrations of chemical, physical, biological, and other constituents that are discharged into state waters.

(10) "Energy development project" means each plant, unit, or other development and associated developments, including any associated supporting infrastructure, designed for or capable of:

(a) generating electricity;

(b) producing gas derived from coal;

(c) producing liquid hydrocarbon products;

(d) refining crude oil or natural gas;

(e) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive pursuant to Title 15, chapter 70, part 5; or

(f) transmitting electricity through an electric transmission line with a design capacity of equal to or greater than 50 kilovolts.

(11) "Existing uses" means those uses actually attained in state waters on or after July 1, 1971, whether or not those uses are included in the water quality standards.

(12) "High-quality waters" means all state waters, except:

(a) ground water classified as of January 1, 1995, within the "III" or "IV" classifications established by the department's classification rules; and

(b) surface waters that:

(i) are not capable of supporting any one of the designated uses for their classification; or

(ii) have zero flow or surface expression for more than 270 days during most years.

(13) "Impaired water body" means a water body or stream segment for which sufficient credible data shows that the water body or stream segment is failing to achieve compliance with applicable water quality standards.

(14) "Industrial waste" means a waste substance from the process of business or industry or from the development of any natural resource, together with any sewage that may be present.

(15) "Interested person" means a person who has a real property interest, a water right, or an economic interest that is or may be directly and adversely affected by the department's preliminary decision regarding degradation of state waters, pursuant to 75-5-303. The term includes a person who has requested authorization to degrade high-quality waters.

(16) "Load allocation" means the portion of a receiving water's loading capacity that is allocated to one of its existing or future nonpoint sources or to natural background sources.

(17) "Loading capacity" means the mass of a pollutant that a water body can assimilate without a violation of water quality standards. For pollutants that cannot be measured in terms of mass, it means the maximum change that can occur from the best practicable condition in a surface water without causing a violation of the surface water quality standards.

(18) "Local department of health" means the staff, including health officers, employed by a county, city, city-county, or district board of health.

(19) "Metal parameters" includes but is not limited to aluminum, antimony, arsenic, beryllium, barium, cadmium, chromium, copper, fluoride, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, and zinc.

(20) "Mixing zone" means an area established in a permit or final decision on nondegradation issued by the department where water quality standards

may be exceeded, subject to conditions that are imposed by the department and that are consistent with the rules adopted by the department.

~~(21) “Nutrient work group” means an advisory work group, convened by the department, representing publicly owned and privately owned point sources of pollution, nonpoint sources of pollution, and other interested parties that will advise the department on nutrient standards, the implementation of those standards, and associated economic impacts.~~

~~(22)(21)~~ “Other wastes” means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

~~(23)(22)~~ “Outstanding resource waters” means:

(a) state surface waters located wholly within the boundaries of areas designated as national parks or national wilderness areas as of October 1, 1995; or

(b) other surface waters or ground waters classified by the department under the provisions of 75-5-316 and approved by the legislature.

~~(24)(23)~~ “Owner or operator” means a person who owns, leases, operates, controls, or supervises a point source.

~~(25)(24)~~ “Parameter” means a physical, biological, or chemical property of state water when a value of that property affects the quality of the state water.

~~(26)(25)~~ “Person” means the state, a political subdivision of the state, institution, firm, corporation, partnership, individual, or other entity and includes persons resident in Canada.

~~(27)(26)~~ “Point source” means a discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft, from which pollutants are or may be discharged.

~~(28)(27)~~ (a) “Pollution” means:

(i) contamination or other alteration of the physical, chemical, or biological properties of state waters that exceeds that permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor; or

(ii) the discharge, seepage, drainage, infiltration, or flow of liquid, gaseous, solid, radioactive, or other substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

(b) The term does not include:

(i) a discharge, seepage, drainage, infiltration, or flow that is authorized under the pollution discharge permit rules adopted by the department under this chapter;

(ii) activities conducted under this chapter that comply with the conditions imposed by the department in short-term authorizations pursuant to 75-5-308;

(iii) contamination of ground water within the boundaries of a geologic storage reservoir, as defined in 82-11-101, by a carbon dioxide injection well in accordance with a permit issued pursuant to Title 82, chapter 11, part 1;

(iv) contamination of ground water within the boundaries of an underground mine using in situ coal gasification and operating in accordance with a permit issued under 82-4-221;

(c) Contamination referred to in subsections ~~(28)(b)(iii) and (28)(b)(iv)~~ ~~(27)(b)(iii) and (27)(b)(iv)~~ does not require a mixing zone.

(29)(28) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings or animals, together with ground water infiltration and surface water present.

(30)(29) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other wastes to an ultimate disposal point.

(31)(30) "Standard of performance" means a standard adopted by the department for the control of the discharge of pollutants that reflects the greatest degree of effluent reduction achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, when practicable, a standard permitting no discharge of pollutants.

(32)(31) (a) "State waters" means a body of water, irrigation system, or drainage system, either surface or underground.

(b) The term does not apply to:

(i) ponds or lagoons used solely for treating, transporting, or impounding pollutants; or

(ii) irrigation waters or land application disposal waters when the waters are used up within the irrigation or land application disposal system and the waters are not returned to state waters.

(33)(32) "Sufficient credible data" means chemical, physical, or biological monitoring data, alone or in combination with narrative information, that supports a finding as to whether a water body is achieving compliance with applicable water quality standards.

(34)(33) "Threatened water body" means a water body or stream segment for which sufficient credible data and calculated increases in loads show that the water body or stream segment is fully supporting its designated uses but threatened for a particular designated use because of:

(a) proposed sources that are not subject to pollution prevention or control actions required by a discharge permit, the nondegradation provisions, or reasonable land, soil, and water conservation practices; or

(b) documented adverse pollution trends.

(35)(34) "Total maximum daily load" or "TMDL" means the sum of the individual waste load allocations for point sources and load allocations for both nonpoint sources and natural background sources established at a level necessary to achieve compliance with applicable surface water quality standards.

(36)(35) "Treatment works" means works, including sewage lagoons, installed for treating or holding sewage, industrial wastes, or other wastes.

(37)(36) "Waste load allocation" means the portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources.

(38)(37) "Water quality protection practices" means those activities, prohibitions, maintenance procedures, or other management practices applied to point and nonpoint sources designed to protect, maintain, and improve the quality of state waters. Water quality protection practices include but are not limited to treatment requirements, standards of performance, effluent standards, and operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from material storage.

(39)(38) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of ground water.

(40)(39) "Watershed advisory group" means a group of individuals who wish to participate in an advisory capacity in revising and reprioritizing the list of water bodies developed under 75-5-702 and in the development of

TMDLs under 75-5-703, including those groups or individuals requested by the department to participate in an advisory capacity as provided in 75-5-704.”

Section 4. Repealer. The following section of the Montana Code Annotated is repealed:

75-5-321. Transition for nutrient standards.

Section 5. Repealer. ARM 17.30.660 and 17.30.1388 are repealed.

Section 6. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 75, chapter 5, part 3, and the provisions of Title 75, chapter 5, part 3, apply to [section 2].

Section 7. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 339

[HB 671]

AN ACT REVISING THE MONTANA ACHIEVING A BETTER LIFE EXPERIENCE ACT TO INCLUDE THE SAME DEFINITION FOR THE INTERNAL REVENUE CODE AS THE DEFINITION USED IN THE MONTANA INDIVIDUAL INCOME TAX CODE; AMENDING SECTION 53-25-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-25-103, MCA, is amended to read:

“53-25-103. Definitions. As used in this chapter, the following definitions apply:

(1) “Account” means an eligible participating account established under this chapter by or on behalf of an eligible individual.

(2) “Agent” means one of the following persons acting on behalf of a designated beneficiary:

(a) a person acting under a power of attorney; or

(b) if no person holds a power of attorney, a parent or legal guardian of the designated beneficiary.

(3) “Annual contribution limit” means the limit established in section 529A(b)(2) of the Internal Revenue Code, 26 U.S.C. 529A(b)(2).

(4) “Application” means a form executed by or on behalf of a prospective designated beneficiary to enter into a participating trust agreement and open an account. The application incorporates the participating trust agreement by reference.

(5) “Committee” means the achieving a better life experience program oversight committee established in 53-25-105.

(6) “Contribution” means a payment to an account for the benefit of a designated beneficiary.

(7) “Contributor” means a person who makes a contribution to an account for the benefit of a designated beneficiary.

(8) “Department” means the department of public health and human services provided for in 2-15-2201.

(9) “Designated beneficiary” means the eligible individual on whose behalf an account is established.

(10) “Disability certifications” means disability certifications as defined in section 529A(e)(2) of the Internal Revenue Code, 26 U.S.C. 529A(e)(2).

(11) “Eligible individual” means an eligible individual as defined in section 529A(e)(1) of the Internal Revenue Code, 26 U.S.C. 529A(e)(1).

(12) “Financial institution” means a bank, commercial bank, national bank, savings bank, savings and loan association, credit union, insurance company, trust company, investment adviser, or other similar entity that is authorized to do business in this state.

(13) *“Internal Revenue Code” has the same meaning as provided in 15-30-2101.*

(13)(14) “Investment products” means, without limitation, certificates of deposit, savings accounts paying fixed or variable interest, financial instruments, one or more mutual funds, and a mix of mutual funds.

(14)(15) “Member of the family” means, with respect to a designated beneficiary, a member of the family of the designated beneficiary as defined in section 529A(e)(4) of the Internal Revenue Code, 26 U.S.C. 529A(e)(4).

(15)(16) “Nonqualified withdrawal” means a withdrawal from the account that is not:

(a) a qualified withdrawal;

(b) a withdrawal made as the result of the death of the designated beneficiary of an account; or

(c) a rollover distribution or a change of designated beneficiary described in 53-25-111.

(16)(17) “Participating trust agreement” means an agreement between a designated beneficiary and the department or its designee that creates a trust interest in the trust and provides for participation in the program.

(17)(18) “Program” means the Montana achieving a better life experience program provided for in this chapter and authorized under section 529A of the Internal Revenue Code, 26 U.S.C. 529A.

(18)(19) “Program administrator” means the person appointed or contracted by the department to administer the daily operations of the program and provide marketing, recordkeeping, investment management, and other services for the program.

(19)(20) “Program manager” means a financial institution that acts on behalf of the trust as provided in 53-25-112.

(20)(21) “Qualified disability expenses” means qualified disability expenses as defined in section 529A(e)(5) of the Internal Revenue Code, 26 U.S.C. 529A(e)(5).

(21)(22) “Qualified withdrawal” means a withdrawal from an account to pay the qualified disability expenses of the designated beneficiary of the account. A qualified withdrawal may be made by the beneficiary or the beneficiary’s agent.

(22)(23) “Rollover distribution” means a transfer of funds made:

(a) from one account in another state’s qualified program to an account for the benefit of the same designated beneficiary or an eligible individual who is a family member of the former designated beneficiary; or

(b) from one account to another account for the benefit of an eligible individual who is a family member of the former designated beneficiary.

(23)(24) “Trust” means the achieving a better life experience savings trust as provided in 53-25-121.

(24)(25) “Trustee” means the department in its capacity as trustee of the trust.

(25)(26) “Trust interest” means a designated beneficiary’s interest in the trust created by a participating trust agreement and held for the benefit of the designated beneficiary.”

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to income tax years beginning after December 31, 2024.

Approved May 1, 2025

CHAPTER NO. 340

[HB 694]

AN ACT REVISING CHILD ABUSE AND NEGLECT LAWS; REVISING THE DECLARATION OF POLICY; REVISING PLACEMENT PREFERENCES TO PROVIDE THAT PLACEMENTS OUTSIDE OF THE UNITED STATES ARE DISFAVORED; AND AMENDING SECTIONS 41-3-101 AND 41-3-450, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 41-3-101, MCA, is amended to read:

“41-3-101. Declaration of policy. (1) It is the policy of the state of Montana to:

(a) provide for the protection of children whose health and welfare are or may be adversely affected *by child abuse or neglect* and further threatened by the conduct of those responsible for the children’s care and protection;

(b) achieve these purposes in a family environment and preserve the unity and welfare of the family whenever possible;

(c) support the efforts of parents whose children have been removed to reunify the family, including by taking into account whether those efforts may be impeded by court-ordered support payments;

(d) ensure that there is no forced removal of a child from the family based solely on an allegation of abuse or neglect unless the department has reasonable cause to suspect that the child is at imminent risk of harm;

(e) recognize that a child is entitled to assert the child’s constitutional rights;

(f) ensure that all children have a right to a healthy and safe childhood in a permanent placement; and

(g) ensure that whenever removal of a child from the home is necessary, the child is entitled to maintain ethnic, cultural, and religious heritage whenever appropriate.

(2) It is intended that the mandatory reporting of abuse or endangerment cases by professional people and other community members to the appropriate authority will cause the protective services of the state to seek to prevent further abuses, protect and enhance the welfare of these children, and preserve family life whenever appropriate.

(3) In implementing this chapter, whenever it is necessary to remove a child from the child’s home *due to child abuse or neglect*, the department shall, when it is in the best interests of the child, place the child in accordance with 41-3-450 and 41-3-451. Prior to approving a placement, the department shall investigate whether anyone living in the home has been convicted of a crime involving serious harm to children.

(4) (a) The department shall create a registry for voluntary registration by close relatives of a child for purposes of notifying those relatives when a child that is related has been removed from the child’s home pursuant to this chapter.

(b) The registry must contain the names of the child and the child's parents and may contain the names of the child's grandparents, aunts, uncles, adult brothers, and adult sisters and must contain the contact information for the child and parents and any of the relatives whose names appear in the registry.

(5) The department shall consult the registry and notify the relatives on the registry on the first working day after placing the child in accordance with 41-3-301.

(6) The department may charge a fee commensurate with the cost of operating the registry. The fee may be charged only to those persons whose names are voluntarily entered in the registry.

(7) In implementing the policy of this section, the child's health and safety are of paramount concern."

Section 2. Section 41-3-450, MCA, is amended to read:

"41-3-450. Placement preferences. (1) The placement preferences described in this section apply in any foster care, preadoptive, or adoptive placement of a child unless there is a determination under 41-3-451 that good cause exists to not follow the placement preferences or unless the placement is governed by the federal Indian Child Welfare Act or the Montana Indian Child Welfare Act.

(2) (a) In any adoptive placement of a child, preference must be given in descending order to placement of the child with:

- (i) a member of the child's extended family, including fictive kin;
- (ii) a member of the child's community with ethnic, cultural, and religious heritage similar to the child's family; or
- (iii) a family with ethnic, cultural, and religious heritage similar to the child's family.

(b) When appropriate, the placement preference of the child or the child's parent or legal guardian must be considered.

(3) Except as provided in 41-3-301(1), in any foster care or preadoptive placement of a child:

- (a) the child must be placed in the least restrictive setting that:
 - (i) most approximates a family, taking into consideration sibling attachment;
 - (ii) allows the child's special needs, if any, to be met; and
 - (iii) is in reasonable proximity to the child's home, extended family, or siblings;

(b) preference must be given in descending order to placement of the child with:

- (i) a member of the child's extended family, including fictive kin;
- (ii) a licensed foster home located in the child's community with ethnic, cultural, and religious heritage similar to the child's family;
- (iii) a licensed foster home with ethnic, cultural, and religious heritage similar to the child's family; or

(iv) an institution for children approved by the department that has a program suitable to meet the child's needs; and

(c) the preference of the child or the child's parent or legal guardian must be considered.

(4) (a) *Except as provided in subsection (4)(b), placement outside of the United States is disfavored under this section.*

(b) *A child subject to the provisions of the federal Indian Child Welfare Act or the Montana Indian Child Welfare Act established in Title 41, chapter 3, part 13, is not subject to subsection (4)(a).*

(4)(5) For the purposes of this section, "fictive kin" means a person to whom the child and the child's parent and family ascribe a family relationship and

with whom the child has had a significant emotional tie that existed prior to the department's involvement with the child and the child's family."

Approved May 1, 2025

CHAPTER NO. 341

[HB 710]

AN ACT GENERALLY REVISING LAWS RELATED TO THE JUDICIARY; ALLOWING A SUPREME COURT JUSTICE OR DISTRICT COURT JUDGE TO ISSUE SUBPOENAS REQUESTED BY AN INTERNET CRIMES AGAINST CHILDREN TASK FORCE OFFICER; PROVIDING A DEFINITION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Issuance of subpoena by certain officers -- definition.

(1) When an internet crimes against children task force officer has a duty to investigate an offense that involves the sexual exploitation of a minor, a justice of the supreme court or a district court judge of this state may cause subpoenas to be issued commanding the persons to whom they are directed to appear before the internet crimes against children task force officer and give testimony and produce books, records, papers, documents, and other objects as may be necessary and proper to the investigation.

(2) A subpoena under this section may be issued only when it relates to an investigation of an offense that involves the sexual exploitation of a minor and it appears on the affidavit of the internet crimes against children task force officer that the administration of justice requires it to be issued.

(3) A subpoena under this section may require the production of the following records or other documentation relevant to the investigation:

- (a) name of an account holder;
- (b) billing and service address;
- (c) electronic mail address;
- (d) internet user name;
- (e) telephone number;
- (f) internet protocol address;
- (g) account status;
- (h) source of payment for the service, including a credit card or bank account number;
- (i) method of access to the internet; and
- (j) automatic number identification records, if internet access is by modem.

(4) For the purposes of this section, "internet crimes against children task force officer" means a peace officer, as defined in 45-2-101, who is assigned to the internet crimes against children task force that is located in the state and recognized by the United States department of justice.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 46, chapter 4, and the provisions of Title 46, chapter 4, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 342

[SB 105]

AN ACT PROHIBITING ELECTIONEERING AT ALL POLLING LOCATIONS FOR ALL ELECTIONS FROM THE TIME ABSENTEE BALLOTS ARE AVAILABLE UNTIL ALL VOTING IS COMPLETED; AMENDING SECTION 13-35-211, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-35-211, MCA, is amended to read:

“13-35-211. Electioneering – soliciting information from electors.

(1) ~~A A~~ person may not do any electioneering ~~on election day within any polling place or any building in which an election is being held at any location where an elector may obtain or vote a ballot, or within 100 feet of any entrance to the~~ a building in which ~~the polling place is located~~ an elector may obtain or vote a ballot, during the hours the location is open to obtain or vote a ballot, that aids or promotes the success or defeat of any candidate or ballot issue to be voted ~~upon~~ on at the election.

(2) ~~On election day, a~~ A candidate, a family member of a candidate, or a worker or volunteer for the candidate’s campaign may not distribute alcohol, tobacco, food, drink, or anything of value to a voter ~~within a polling place or a building in which an election is being held in any location where an elector may obtain or vote a ballot, or within 100 feet of an entrance to the~~ a building in which ~~the polling place is located~~ an elector may obtain or vote a ballot, during the hours the location is open to electors to obtain or vote a ballot.

(3) A person may not buy, sell, give, wear, or display at ~~or about the polls on an election day any location where an elector may obtain or vote a ballot, during the hours the location is open to electors to obtain or vote a ballot,~~ any badge, button, or other insignia that is designed or tends to aid or promote the success or defeat of any candidate or ballot issue to be voted ~~upon~~ on at the election.

(4) A person ~~within a polling place or any building in which an election is being held a location where an elector may obtain or vote a ballot, during the hours the location is open to electors to obtain or vote a ballot,~~ may not solicit from an elector, before or after the elector has marked a ballot and returned it to an election judge, information as to whether the elector intends to vote or has voted for or against a candidate or ballot issue.”

Section 2. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 3. Effective date. [This act] is effective July 1, 2025.

Approved May 1, 2025

CHAPTER NO. 343

[SB 111]

AN ACT LIMITING THE USE OF GREEN LIGHTS ON PUBLIC HIGHWAYS TO SNOW REMOVAL EQUIPMENT OPERATED BY THE DEPARTMENT OF TRANSPORTATION OR ANOTHER GOVERNMENT ENTITY AND TO ON-SCENE INCIDENT COMMANDERS; AND AMENDING SECTION 61-9-226, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-9-226, MCA, is amended to read:

“61-9-226. Special restrictions on lamps – definition. (1) A lighted lamp or illuminating device upon a motor vehicle other than headlamps, spot lamps, auxiliary lamps, or flashing turn signals, emergency vehicle warning lamps, and school bus warning lamps that projects a beam of light of an intensity greater than 300 candlepower must be so directed that the high intensity portion of the beam may not strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(2) A person may not drive or move a vehicle or equipment upon a highway with:

(a) a lamp or device displaying a red light visible from in front of the center of the vehicle. This section does not apply to a vehicle upon which a red light visible from the front is expressly authorized or required by this code.

(b) green lights that are flashing, rotational, or continuous, except for vehicles that are authorized by this chapter to contain the lights, including:

(i) snow-removal equipment operated by the department of transportation or another government entity; and

(ii) a police or authorized emergency vehicle that is an on-scene incident command or control vehicle.

(3) Flashing, blinking, sequential, rotating, or pulsating lights are prohibited except on vehicles that are authorized by this chapter to contain the lights or on a vehicle as a means for indicating a right or left turn or the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking, or passing.

(4) License plate decorative lighting that is not original manufacturer's equipment or undercarriage decorative lighting that rotates, flashes, or oscillates or that displays a color authorized by this chapter for use by police vehicles and authorized emergency vehicles may not be illuminated on a vehicle that is operated upon a highway or street.

(5) As used in this section “school bus” has the meaning provided in 20-10-101.”

Approved May 1, 2025

CHAPTER NO. 344

[SB 161]

AN ACT PROVIDING FOR THE REGULATION AND SALE OF AQUACULTURE; PROVIDING DEFINITIONS; PROVIDING EXEMPTIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 30-12-301, 50-49-203, 50-50-102, AND 80-3-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 30-12-301, MCA, is amended to read:

“30-12-301. Method of sale of commodities – general. (1) Commodities in liquid form may be sold only by liquid measure or by weight, and, except as otherwise provided in parts 1 through 5, commodities not in liquid form may be sold only by weight, by measure of length or area, or by count. Liquid commodities may be sold by weight and commodities not in liquid form may be sold by count only if those methods give accurate information as to the quantity of commodity sold. This section does not apply to:

(a) commodities when sold for immediate consumption on the premises where sold;

(b) vegetables when sold by the head or bunch;

(c) commodities in containers standardized by a law of this state or by federal law;

(d) commodities in package form when there exists a general consumer usage to express the quantity in some other manner;

(e) concrete aggregates, concrete mixtures, and loose solid materials such as earth, soil, gravel, crushed stone, and the like, when sold by cubic measure;

(f) unprocessed vegetable and animal fertilizer when sold by cubic measure;

(g) cottage food products as defined in 50-50-102; or

(h) homemade food or homemade food products sold pursuant to Title 50, chapter 49, part 2; or

(i) *aquaculture products as defined in 80-3-302.*

(2) The department may adopt reasonable rules necessary to ensure that amounts of commodity sold are determined in accordance with good commercial practice and are determined and represented as to be accurate and informative to all parties at interest."

Section 2. Section 50-49-203, MCA, is amended to read:

"50-49-203. Exemptions from regulations -- transactions -- information required -- exceptions. (1) (a) A state agency or an agency of a political subdivision of the state may not require licensure, permitting, certification, packaging, labeling, testing, sampling, or inspection that pertains to the preparation, serving, use, consumption, delivery, or storage of homemade food or a homemade food product under this part.

(b) This part does not preclude an agency from providing assistance, consultation, or inspection requested by a producer.

(c) A producer is not:

(i) a retail food establishment, a cottage food operation, or a temporary food establishment, as each term is defined in 50-50-102;

(ii) a wholesale food manufacturing establishment, as defined in 50-57-102; or

(iii) a dairy or a manufactured dairy products plant, as defined in 81-22-101.

(d) A producer is not subject to labeling, licensure, inspection, sanitation, or other requirements or standards of 30-12-301; Title 50, chapters 31 and 50; or Title 81, chapters 2, 9, 21, 22, or 23.

(2) Transactions pursuant to this part:

(a) must be directly between the producer and the informed end consumer;

(b) must be only for home consumption or consumption at a traditional community social event;

(c) must occur only in this state and may not involve interstate commerce; and

(d) are not subject to regulation by a board of county commissioners pursuant to 7-21-3301.

(3) Except as provided in subsection (7), a producer shall inform an end consumer that any homemade food or homemade food product sold through ranch, farm, or home-based sales pursuant to this part has not been licensed, permitted, certified, packaged, labeled, or inspected per any official regulations.

(4) Except for raw, unprocessed fruit, ~~and~~ vegetables, *and aquaculture products as defined in 80-3-302*, homemade food may not be sold or used in a retail food establishment, as defined in 50-50-102, unless the food has been licensed, permitted, certified, packaged, labeled, and inspected as required by law.

(5) Except as provided in subsection (6) and pursuant to this part, a producer may donate homemade food or homemade food products to a traditional community social event.

(6) A producer may not donate milk to a traditional community social event.

(7) (a) Except for a temporary food establishment subject to 50-50-120, meat or meat products processed at a state-licensed establishment or a federally approved meat establishment, by the producer, or by any third party may not be used in preparation of homemade food that is sold pursuant to a transaction provided for in this part.

(b) Subsection (7)(a) does not apply to a producer who slaughters fewer than 1,000 poultry birds a year except that the producer is subject to the requirements of 9 CFR 381.10(c) and the recordkeeping requirements of 9 CFR 381.175. The poultry or poultry products may not be adulterated or misbranded.

(8) A small dairy shall:

(a) sample, test, or retest every 6 months for standard plate count, coliform count, and somatic cell count of milk or cream sold as homemade food pursuant to this part;

(b) sample, test, or retest every year for brucellosis for every lactating cow, lactating goat, or lactating sheep that is part of the small dairy; and

(c) maintain records for 2 years of all previous samples, tests, or retests, which must be provided to the department of livestock if the department suspects the small dairy is causing a foodborne illness."

Section 3. Section 50-50-102, MCA, is amended to read:

"50-50-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Consumer" means a person who is a member of the public, takes possession of food, and does not offer the food for resale.

(2) "Contract cook" means a person who specializes in a home food service and prepares food in an individual's domestic residence only for members of that household and house guests.

(3) "Cottage food operation" means a person who provides, manufactures, or packages cottage food products only in a kitchen in a registered area of a domestic residence and only for direct sale to a consumer in this state.

(4) "Cottage food products" means foods that are not potentially hazardous and are processed or packaged in a cottage food operation, including jams, jellies, dried fruit, dry mixes, and baked goods. Other similar foods that are not potentially hazardous may be defined by the department by rule.

(5) "Department" means the department of public health and human services provided for in 2-15-2201.

(6) "Direct sale" means a face-to-face purchase or exchange of the cottage food product between the manufacturer or packager of a cottage food product and a consumer or individual purchasing the cottage food product as a gift. The direct sale may not be by consignment or involve shipping or internet sales.

(7) "Domestic residence" means a single-family house or a unit in a multiunit residential structure, whether rented, leased, or owned by the person in charge of the cottage food operation.

(8) "Farmer's market" means a farm premises, a food stand owned and operated by a farmer, or an organized market authorized by the appropriate municipal or county authority under 7-21-3301.

(9) "Food" means an edible substance, beverage, or ingredient used, intended for use, or for sale for human consumption.

(10) "Local board of health" means a county, city, city-county, or district board of health.

(11) "Local health officer" means a county, city, city-county, or district health officer, appointed by the local board of health, or the health officer's authorized representative.

(12) "Meat market" means an operation and buildings or structures in connection with the meat market that are used to process, store, or display meat or meat products for retail sale to the public or for human consumption.

(13) (a) "Mobile food establishment" means a retail food establishment that serves or sells food from a motor vehicle, a nonmotorized cart, a boat, or other movable vehicle that periodically or continuously changes location and requires a servicing area to accommodate the unit for cleaning, inspection, and maintenance.

(b) The term does not include:

(i) a motor vehicle used solely to transport or deliver food by a motorized carrier regulated by the state or the federal government;

(ii) a cottage food operation transport vehicle; or

(iii) a concession stand designed to operate as a temporary food establishment.

(14) "Nonprofit organization" means any organization qualifying as a tax-exempt organization under 26 U.S.C. 501.

(15) "Person" means an individual, a partnership, a corporation, an association, a cooperative group, the state or a political subdivision of the state, or other entity.

(16) "Potentially hazardous food" means food that requires time and temperature control for safety to limit toxin formation or the growth of pathogenic microorganisms.

(17) (a) "Raw agricultural commodity" means any food in its raw, unaltered state, including fruits, vegetables, *aquaculture products as defined in 80-3-302*, raw honey, and grains. A raw agricultural commodity may be in a container if putting the commodity in a container does not alter the raw state.

(b) The term does not include an agricultural commodity that has been altered by being:

(i) cooked;

(ii) canned;

(iii) preserved, except for drying;

(iv) combined with other food products; or

(v) peeled, diced, cut, blanched, or otherwise subjected to value-adding procedures.

(18) "Registered area" means the portion of a domestic residence that has been registered as provided in 50-50-117 and in which food ingredients intended for cottage food products are transported or stored or the domestic residence kitchen where cottage food products are processed, packaged, or stored.

(19) "Regulatory authority" means the department, the local board of health, the local health officer, or the local sanitarian.

(20) "Retail" means the provision of food directly to the consumer.

(21) (a) "Retail food establishment" means an operation, whether mobile or at a temporary or stationary facility or location, that meets one or more of the conditions in subsections (21)(a)(i) and (21)(a)(ii) and that may include a central processing facility that supplies a transportation vehicle or a vending location or satellite feeding location. A retail food establishment:

(i) stores, processes, packages, serves, or vends food directly to the consumer or otherwise provides food for human consumption at a venue that may include:

(A) a restaurant;

(B) a market;

- (C) a satellite or catered feeding location;
- (D) a catering operation if the catering operation provides food directly to a consumer or to a conveyance used to transport people;
- (E) a vending location;
- (F) a conveyance used to transport people;
- (G) an institution; or
- (H) a food bank; and
- (ii) relinquishes possession of food to a consumer directly or indirectly by using either a delivery service, as is done for grocery or restaurant orders, or a common carrier that provides deliveries.
- (b) The term is not dependent on whether consumption is on or off the premises or whether there is a charge for food served to the public.
- (c) The term does not include:
 - (i) milk producers' facilities, milk pasteurization facilities, or milk product manufacturing plants;
 - (ii) slaughterhouses, meat packing plants, or meat depots;
 - (iii) growers or harvesters of raw agricultural commodities;
 - (iv) a cottage food operation;
 - (v) a person that sells or serves only commercially prepackaged foods that are not potentially hazardous;
 - (vi) a food stand that offers raw agricultural commodities;
 - (vii) a wholesale food establishment, including those wholesale food establishments that are located on the same premises as a retail food establishment;
 - (viii) a kitchen in a domestic residence used for preparing food to sell or serve at a function by a nonprofit organization as provided in subsection (21)(c)(xiii);
 - (ix) custom meat and game animal processors that receive from an owner the remains of a carcass and process those remains for delivery to the owner for the exclusive use in the owner's household by the owner or members of the owner's household, including the owner's family pets, or of the owner's nonpaying guests or employees. For this exemption to apply, the carcass must be kept separate from other meat food products and parts that are to be prepared for sale.
 - (x) private, religious, fraternal, youth, patriotic, or civic organizations that serve or sell food to the public over no more than 4 days in a 12-month period;
 - (xi) a private organization that serves food only to its members and their guests;
 - (xii) a bed and breakfast, a hotel, a motel, a roominghouse, a guest ranch, an outfitting and guide facility, a boardinghouse, or a tourist home as defined in 50-51-102 that serves food only to registered guests and day visitors;
 - (xiii) a nonprofit organization that operates a temporary food establishment under a permit as provided in 50-50-120;
 - (xiv) persons who sell or serve at a farmer's market or a food stand whole shell eggs, hot coffee, hot tea, homemade food or a homemade food product pursuant to Title 50, chapter 49, or other food not meeting the definition of potentially hazardous, as authorized by the appropriate municipal or county authority;
 - (xv) a day-care center under 52-2-721(1)(a) or day-care providers who are not subject to licensure under 52-2-721(1)(a);
 - (xvi) a private domestic residence that receives catered or home-delivered food;
 - (xvii) a contract cook; or

(xviii) a provider of free samples to the public as a marketing activity if the provider is a licensed wholesale food establishment, a cottage food operation, or a seller at a farmer's market.

(22) "Temporary food establishment" means a retail food establishment that in a licensing year either:

(a) operates at a fixed location for no more than 21 days in conjunction with a single event or celebration; or

(b) uses a fixed menu and operates within a single county at a recurring event or celebration for no more than 45 days.

(23) (a) "Water hauler" means a person engaged in the business of transporting water for human consumption and use and that is not regulated as a public water supply system as provided in Title 75, chapter 6.

(b) The term does not include a person engaged in the business of transporting water for human consumption that is used for individual family households and family farms and ranches."

Section 4. Section 80-3-302, MCA, is amended to read:

"80-3-302. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) *"Aquaculture" means the commercial production of aquatic organisms under controlled conditions throughout part or all of their life cycle.*

(2) *"Aquaculture products" means articles used for human consumption produced by aquaculture. The term includes but is not limited to fish, shellfish, and aquatic plants.*

(3) "Container" means any package, sack, box, crate, carton, basket, or other object used for the shipping of produce.

(4) (a) *"Controlled conditions" means the management of water quality, feed, stocking density, and environmental parameters within an aquatic system to optimize the growth and health of farmed aquatic organisms. Controlled conditions include the conditions required by a controlled species permit or a prohibited species permit issued pursuant to Title 87, chapter 5, part 7.*

(b) *The term does not include a pond, lake, reservoir, river, ocean, or stream.*

(5) "Director" means the director of agriculture appointed pursuant to 2-15-3001.

(6) "Person" means an individual, firm, association, corporation, partnership, or any other form of business enterprise.

(7) (a) "Produce" means any fruit, vegetable, *aquaculture product*, or other natural product designated by department rule.

(b) The term does not include livestock and its byproducts, poultry and its byproducts, apiary products, dairy products, or grain.

(8) "Produce dealer" means a person who engages in a business involving or who as part of a business participates in purchasing, exchanging, negotiating, or soliciting the sale, resale, exchange, or transfer of produce in this state, except vegetative seed potato products intended or used for planting purposes.

(9) "Produce unit" means the standard size container for a given type of produce. A produce unit may be established by department rule.

(10) "Retail" means sale of produce to the ultimate consumer.

(11) "Shipping point inspection" means an inspection of produce at the location from which it was shipped.

(12) "Stop sale order" means a written notice to hold produce from sale or movement until a violation has been resolved and the produce is released by the department.

(13) (a) "Wholesale" means the sale of produce intended for resale.

(b) The term does not include the sale of Montana-grown produce when sold by the Montana grower for purposes of resale or vegetative seed potato products intended or used for planting purposes.”

Section 5. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 345

[SB 163]

AN ACT REVISING THE GENETIC INFORMATION PRIVACY ACT; INCLUDING NEUROTECHNOLOGY DATA IN THE SCOPE OF THE GENETIC INFORMATION PRIVACY ACT; ADDING LEGISLATIVE FINDINGS AND PURPOSE TO THE ACT; REVISING PROVISIONS RELATING TO EXCEPTIONS; ADDING PROTECTIONS FOR THE PRIVACY OF NEUROTECHNOLOGY DATA; REVISING PROVISIONS RELATING TO PRIVACY NOTICES; PROVIDING A DEFINITION; AND AMENDING SECTIONS 30-23-101, 30-23-102, 30-23-103, 30-23-104, 30-23-105, AND 44-6-104, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 30-23-101, MCA, is amended to read:

“30-23-101. Short title – legislative findings and declaration of purpose. (1) This part may be cited as the “Genetic Information Privacy Act”.

(2) *The legislature finds and declares that:*

(a) *(i) the people of Montana regard their privacy as a fundamental right and an essential element of individual freedom; and*

(ii) Article II, section 10, of the Montana constitution protects individuals’ privacy, and fundamental privacy rights have long been, and continue to be, integral to protecting Montanans;

(b) ongoing advances in technology have produced exponential growth in the volume and variety of personal data being generated, collected, stored, and analyzed, and these advances present both great promise and potential risks;

(c) technology that collects data about the user’s bodily and mental functions is transforming the volume and sensitivity of personal data collected from individuals and stored by companies;

(d) neurotechnologies, including devices capable of recording, interpreting, and altering the response of an individual’s central or peripheral nervous system to its internal or external environment, raise particularly pressing privacy concerns given their ability to monitor, decode, and manipulate brain activity;

(e) data concerning the activity of the human brain and wider nervous systems, or “neurotechnology data”, is extremely sensitive and can reveal intimate information about individuals, including information about health, mental states, emotions, and cognitive functioning;

(f) each human brain is unique, meaning that neural data is specific to the individual from whom it is collected. Because neurotechnology data contains distinctive information about the structure and functioning of individual brains and nervous systems, it contains sensitive information that may link the data to an identified or identifiable individual.

(g) the collection of neurotechnology data involves the involuntary disclosure of information. Even if individuals consent to the collection and processing of their data for narrow use, they are unlikely to be fully aware of the content or quality of information they are sharing.

(h) neurotechnology users cannot decide what specific neurotechnology information they would like to disclose, and they are unlikely to understand the extent to which their neurotechnology data can be decoded, currently or in the future. Neurotechnologies can collect and process information about an individual that the individual did not even know existed.

(i) neurotechnologies that are deployed in medical settings or otherwise utilize the surgical implantation of invasive devices are typically regulated as medical tools that produce health information. Both invasive and noninvasive wearable neurotechnologies used in medical settings are also regulated by health data privacy laws. However, when noninvasive neurotechnologies are used outside of medical settings, they are generally considered consumer products and operate without regulation or data protection standards.”

Section 2. Section 30-23-102, MCA, is amended to read:

“30-23-102. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) “Biological sample” means any human material known to contain DNA, including tissue, blood, urine, or saliva.

(2) “Consumer” means an individual who is a resident of this state.

(3) “DNA” means deoxyribonucleic acid.

(4) “Entity” means a partnership, corporation, association, or public or private organization of any character that:

(a) offers consumer genetic testing products or services directly to a consumer; or

(b) collects, uses, or analyzes genetic data.

(5) “Express consent” means a consumer’s affirmative response to a clear, meaningful, and prominent notice regarding the collection, use, or disclosure of genetic data for a specific purpose.

(6) (a) “Genetic data” means any data, regardless of format, concerning a consumer’s genetic characteristics.

(b) The term includes but is not limited to:

(i) raw sequence data that result from sequencing all or a portion of a consumer’s extracted DNA;

(ii) genotypic and phenotypic information obtained from analyzing a consumer’s raw sequence data; and

(iii) self-reported health information regarding a consumer’s health conditions that the consumer provides to an entity that the entity:

(A) uses for scientific research or product development; and

(B) analyzes in connection with the consumer’s raw sequence data.

(7) “Genetic testing” means:

(a) a laboratory test of a consumer’s complete DNA, regions of DNA, chromosomes, genes, or gene products to determine the presence of genetic characteristics of a consumer; or

(b) an interpretation of a consumer’s genetic data.

(8) “Governmental agency” means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality, or other political subdivision of a state.

(9) “Neurotechnology” means devices capable of recording, interpreting, or altering the response of an individual’s central or peripheral nervous system to its internal or external environment and includes mental augmentation, which means improving human cognition and behavior through direct recording or manipulation of neural activity by neurotechnology.

(10) (a) “Neurotechnology data” means information that is captured by neurotechnologies, is generated by measuring the activity of an individual’s central or peripheral nervous systems, or is data associated with neural activity,

which means the activity of neurons or glial cells in the central or peripheral nervous system, and that is not nonneural information.

(b) The term does not include nonneural information, which means information about the downstream physical effects of neural activity, including by not limited to pupil dilation, motor activity, and breathing rate.

~~(9)~~⁽¹¹⁾ “Person” means an individual, partnership, corporation, association, business, business trust, or legal representative of an organization.

~~(10)~~⁽¹²⁾ “Processor” means a person that processes genetic data on behalf of an entity pursuant to a contract between the entity and the processor that prohibits the processor from retaining, using, or disclosing the genetic data, or any information regarding the identity of the consumer, including whether that consumer has solicited or received genetic testing, as applicable, for any purpose other than for the specific purpose of performing the services specified in the contract.

~~(11)~~⁽¹³⁾ “Third party” means a person other than the consumer, entity, or processor.”

Section 3. Section 30-23-103, MCA, is amended to read:

“30-23-103. Exceptions. (1) This part does not apply to:

(a) protected health information that is collected by a covered entity or business associate as those terms are defined in 45 CFR, parts 160 and 164, if separate informed consent related to the collection, use, and dissemination of genetic or *neurotechnology* data is obtained from the consumer, parent, guardian, or power of attorney, and the covered entity or business associate follows the policies under 30-23-104(6)(a) through (6)(d);

(b) an entity when it is engaged only in collecting, using, or analyzing genetic data or biological samples in the context of *scientific or clinical* research as defined in 45 CFR 164.501 conducted with the express consent of an individual and in accordance with:

(i) the federal policy for the protection of human research subjects under 45 CFR, part 46, the good clinical practice guideline issued by the international council for harmonisation of technical requirements for pharmaceuticals for human use; or

(ii) the United States food and drug administration policy for the protection of human subjects under 21 CFR, parts 50 and 56; or

(c) uses by a governmental agency; or

(d) *deidentified genetic data obtained from a third party to the extent that the data is used to conduct internal, medical, or scientific research. Data must be considered deidentified if:*

(i) it cannot be reasonably linked to an identifiable individual; and

(ii) the entity:

(A) takes administrative and technical measures to ensure the data cannot be associated with a particular consumer;

(B) maintains and uses data in deidentified form and does not attempt to reidentify data; and

(C) enters a legally enforceable contractual obligation that prohibits a recipient of the data from attempting to reidentify the data.

~~(2) Beginning June 1, 2025, any~~ Any collection, storage, use, or dissemination of genetic or *neurotechnology* data by a governmental agency must be performed in accordance with a specific state law or executed through a search warrant or *investigative subpoena issued pursuant to 46-4-301.*”

Section 4. Section 30-23-104, MCA, is amended to read:

“30-23-104. Consumer genetic or *neurotechnology* data – privacy notice – consent – access – deletion – destruction. To safeguard the privacy, confidentiality, security, and integrity of a consumer’s genetic or *neurotechnology* data, an entity shall:

(1) provide clear and complete information regarding the entity's policies and procedures for the collection, use, or disclosure of genetic or *neurotechnology* data by making available to a consumer:

(a) a high-level privacy policy overview that includes basic, essential information about the entity's collection, use, or disclosure of genetic or *neurotechnology* data; and

(b) a prominent, publicly available privacy notice that includes, at a minimum, information about the entity's data collection, consent, use, access, disclosure, transfer, security, and retention and deletion practices for genetic or *neurotechnology* data;

(2) obtain initial express consent from a consumer, parent, guardian, or power of attorney for the collection, use, or disclosure of the consumer's genetic or *neurotechnology* data that:

(a) clearly describes the entity's use of the genetic or *neurotechnology* data that the entity collects through the entity's genetic testing product or service;

(b) specifies the categories of individuals within the entity that have access to test results; and

(c) specifies how the entity may share the genetic or *neurotechnology* data;

(3) if the entity engages in any of the following, obtain a consumer's:

(a) separate express consent for:

(i) the transfer or disclosure of the consumer's genetic or *neurotechnology* data or biological sample to any third party other than the entity's processors, including the name of the third party to which the consumer's genetic or *neurotechnology* data or biological sample will be transferred or disclosed with the consumer's express consent;

(ii) the use of genetic or *neurotechnology* data beyond the primary purpose of the entity's genetic testing product or service and inherent contextual uses; or

(iii) the entity's retention of any biological sample provided by the consumer following the entity's completion of the initial testing service requested by the consumer;

(b) informed express consent for transfer or disclosure of the consumer's genetic or *neurotechnology* data to third party persons for:

(i) research purposes; or

(ii) research conducted under the control of the entity for the purpose of publication or generalizable knowledge; and

(c) express consent for:

(i) marketing to a consumer based on the consumer's genetic or *neurotechnology* data;

(ii) marketing by a third-party person to a consumer based on the consumer having ordered or purchased a genetic testing product or service. Marketing does not include the provision of customized content or offers on the websites or through the applications or services provided by the entity with the first-party relationship to the consumer; or

(iii) sale or other valuable consideration of the consumer's genetic or *neurotechnology* data.

(4) comply with the provisions of 44-6-104 requiring a valid legal process for disclosing genetic or *neurotechnology* data to law enforcement or any other government agency without a consumer's express consent;

(5) develop, implement, and maintain a comprehensive security program to protect a consumer's genetic or *neurotechnology* data against unauthorized access, use, or disclosure; and

(6) provide a process for a consumer to:

(a) access the consumer's genetic or *neurotechnology* data;

- (b) delete the consumer's genetic or *neurotechnology* data;
 - (c) revoke any consent provided by the consumer; and
 - (d) request and obtain the destruction of the consumer's biological sample.
- (7) *The requirements of subsections (6)(a) through (6)(d) must be waived if:*
- (a) *the entity obtains express and informed written consent from a consumer, parent, guardian, or power of attorney for participation in a clinical research trial, including the collection and use of any genetic or neurotechnology data, which at a minimum must:*
 - (i) *be in accordance with the good clinical practice guideline issued by the international council for harmonisation of technical requirements for pharmaceuticals for human use;*
 - (ii) *be obtained no sooner than 14 days from the initial biological sample collection if the biological sample is collected for a primary purpose unrelated to clinical research;*
 - (iii) *be obtained separately from any other items of consent;*
 - (iv) *be in writing on a form with text that is easily readable with size 12-point font or larger;*
 - (v) *include the entity's biological sample and data retention, sharing, and use policies;*
 - (vi) *include notice that after consent is given, there is no right to access, inspect, or require the destruction of any genetic or neural biological sample or neurotechnology data; and*
 - (vii) *include notice that after consent is given, whole genome sequencing of the individual's biological sample could occur and is permitted without further notice to the individual;*
 - (b) *the genetic or neural biological sample and data is utilized for clinical research purposes only.*
- (8) *The requirements of subsection (6)(d) must be temporarily waived if:*
- (a) *a laboratory is governed under 42 CFR 493.1105;*
 - (b) *the laboratory retains the biological sample for no more than 2 years or the shortest time allowed under law, whichever is less;*
 - (c) *the laboratory does not share, test, or conduct additional analysis or research on the biological sample while the sample is being held under the retention requirements set forth in 42 CFR 493.1105 prior to the requested destruction of the sample; and*
 - (d) *when a clinical laboratory is certified by the centers for medicare and medicaid services, when the retention of a patient's biological sample does not exceed the time needed for compliance with any quality standard or regulation issued pursuant to section 263(a) of the Public Health Service Act, 42 U.S.C. 263(a).*
- (9) *The requirements of subsection (7) supersede all exceptions to, and waivers of, informed consent in the federal policy for the protection of human subjects under 45 CFR, part 46.*
- (7)(10) *Genetic or neurotechnology data and biometric samples of Montana residents collected in the state may not be stored within the territorial boundaries of any country currently sanctioned in any way by the United States office of foreign asset control or designated as a foreign adversary under 15 CFR 7.4(a). Genetic or neurotechnology data or biometric data of Montana residents collected in the state may only be transferred or stored outside the United States with the consent of the resident."*

Section 5. Section 30-23-105, MCA, is amended to read:

"30-23-105. Disclosure – when prohibited – when express consent required. (1) The disclosure of genetic or *neurotechnology* data pursuant to this part must comply with all state and federal laws for the protection of privacy and security.

(2) Notwithstanding any other provisions in 30-23-104, an entity may not disclose a consumer's genetic or *neurotechnology* data to any entity offering health insurance, life insurance, or long-term care insurance, or to any employer of the consumer without the consumer's express consent."

Section 6. Section 44-6-104, MCA, is amended to read:

"44-6-104. Consumer DNA or *neurotechnology* database searches – familial DNA or *neurotechnology* searches – warrant required. (1) A government entity may not obtain DNA or *neurotechnology* search results from a consumer DNA or *neurotechnology* database:

(a) without a search warrant or *investigative subpoena* issued by a court on a finding of probable cause; or

(b) unless the consumer whose information is sought previously waived the consumer's right to privacy in the information.

(2) A government entity may not obtain familial DNA or *neurotechnology* data search results or search results from partial matching from the DNA or *neurotechnology* identification index or a consumer DNA or *neurotechnology* database without a search warrant or *investigative subpoena* issued by a court on a finding of probable cause.

(3) For the purposes of this section, the following definitions apply:

(a) "Consumer DNA database" means a database maintained by a private entity that provides direct-to-consumer genetic testing services.

(b) "DNA identification index" has the same meaning provided in 44-6-101.

(c) "Familial DNA search" means a search performed of a government or consumer DNA database using specialized software to detect and statistically rank a list of potential candidates in the DNA database who may be a close biological relative to the unknown individual contributing the evidence DNA profile. The specialized software search may be combined with lineage testing to help confirm or refute biological relatedness.

(d) "Lineage testing" means additional genetic testing used to help confirm or refute biological relatedness between the known individual in a DNA database and the unknown individual contributing the evidence DNA profile. Examples of additional genetic testing include but are not limited to:

(i) Y-STR analysis to examine STR patterns specific to the Y-chromosome used to determine paternally derived relatedness among DNA profiles;

(ii) mtDNA analysis to examine cell mitochondria used to determine maternally derived relatedness; or

(iii) single nucleotide polymorphism genotyping to generate results related to a person's ancestry and genetic predisposition to health-related topics.

(e) "*Neurotechnology* data" has the same meaning as provided in 30-23-102.

(e)(f) "Partial matching" means a moderate stringency search of a DNA database using routine search parameters that results in one or more partial matches between single-source and nondegraded DNA profiles that share at least one allele at each locus, indicating a potential familial relationship between the known individual in the DNA database and the unknown individual contributing the evidence DNA profile.

(4) A government entity that legally obtains DNA or *neurotechnology* data search results, as set forth in this section, or genetic or *neurotechnology* data, as set forth in Title 30, chapter 23, part 1, may use the results during criminal investigations and judicial proceedings subject to applicable rules of criminal procedure and evidence."

Approved May 1, 2025

CHAPTER NO. 346

[SB 166]

AN ACT REVISING CERTIFIED PUBLIC ACCOUNTANT EDUCATION REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 37-50-305, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-50-305, MCA, is amended to read:

“37-50-305. Education requirements – definition. (1) An applicant for initial licensure as a certified public accountant must have:

(a) graduated from an accredited college or university with a baccalaureate degree ~~and at least 150 semester hours of credit~~; and

(b) met the requirements for accounting and business course credit hours specified by board rule.

(2) (a) A licensee shall obtain continuing education credits as provided by board and department rule.

(b) If an audit conducted under 37-1-306 results in more than 15% of the audited licensees being noncompliant before the department administers the provisions of 37-1-321, in the subsequent audit year the board may audit up to 100% of the licensees.

~~(3)~~(3) For the purposes of this section, “initial licensure” means that the applicant has never been licensed as a certified public accountant by any jurisdiction.”

Section 2. Effective date. [This act] is effective January 1, 2026.

Approved May 1, 2025

CHAPTER NO. 347

[SB 178]

AN ACT PROVIDING FOR TEMPORARY LEASES OF A WATER RIGHT; REVISING A DEFINITION; EXTENDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 85-2-102 AND 85-2-404, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Temporary lease of appropriation right -- notice.

(1) Applications to temporarily lease an appropriation right that comply with the requirements of this section are not subject to the provisions of 85-2-402, 85-2-407, 85-2-408, 85-2-410, or 85-2-436. After obtaining approval pursuant to this section, an appropriator may temporarily lease an appropriation right.

(2) The amount of water leased may not exceed the total consumptive use of the appropriation right. For an irrigation right, the consumptive volume may not exceed 2 acre-feet per acre irrigated.

(3) (a) Each appropriation right leased pursuant to this section:

(i) must have been in use within 5 years prior to the application date;

(ii) may be leased only during the period of diversion for the appropriation right;

(iii) may not be leased for more than 5 years during any consecutive 10-year period;

(iv) may not be leased for more than 40 days a year; and

(v) may only be leased for a beneficial use as defined in 85-2-102.

(b) The volume and flow rate of water leased may not exceed the appropriator's original water appropriation right.

(c) The point of diversion for the appropriation right may not be changed.

(4) The use of an appropriation right on a place of use associated with leased water is prohibited during any year that leased water is put to beneficial use.

(5) Storage may be temporarily added during the term of the leased appropriation right if the water is diverted at the original point of diversion and subsequently put to a beneficial use.

(6) This section does not apply to change in an appropriation right that would result in leased water being transported outside Montana. Proposed out-of-state uses are subject to the provisions of 85-2-402.

(7) Water leased pursuant to this section must be measured at the point of diversion by a meter approved by the department. The appropriator shall report the amount of water measured at the end of the year in which the lease occurred or upon request of the department.

(8) An applicant proposing to lease an appropriation right pursuant to this section shall submit an application on a form provided by the department and a fee as established by rule. The application must include:

(a) the name and address of each lessee;

(b) the names of all owners of each appropriation right;

(c) the number of each appropriation right;

(d) the proposed use and the place of use for the leased water;

(e) the source of water to be appropriated;

(f) the start and end dates of the proposed lease;

(g) the flow rate of the proposed diversion and the volume of water to be used during the lease;

(h) evidence that the appropriation right has been used within the last 5 years;

(i) a statement of potential adverse effect and a description of planned actions to mitigate potential adverse effects that, in aggregate, demonstrate no adverse effect;

(j) a copy of the executed lease agreement; and

(k) a description of how the existing beneficial use of the appropriation right would cease at the place of use during the lease period, including the number and location of acres to be removed from irrigation, if applicable.

(9) Within 10 days of receipt of an application, the department shall provide written notice to potentially affected appropriators identified by the department that are proximate to the point of diversion.

(10) (a) Within 30 days of receipt of an application, the department shall

(i) determine whether the application is correct and complete;

(ii) evaluate whether the application meets the requirements of subsections (2), (3), and (8); and

(iii) approve or deny the application.

(b) The department may approve an application with conditions.

(c) Leased water may not be used until the department approves an application.

(11) (a) For a period of 30 days from a date an application is authorized pursuant to subsection (10), the department shall accept correct and complete objections to a proposed lease from a person whose property, water rights, or interests would be adversely affected by the proposed appropriation. The objection must be made on a form provided by the department.

(b) Within 5 business days of receipt of a correct and complete objection, the department shall determine whether the objection is valid. A valid objection must contain facts indicating that the rights of other appropriators would be

adversely affected by the lease of the appropriation right. If the department determines that an objection is valid, the authorization of the lease is suspended and no water may be put to beneficial use pursuant to the lease.

(c) (i) The owner of an appropriation right whose authorization is suspended under subsection (11)(b) may request a hearing on the objection pursuant to the informal proceedings provided for in 2-4-604 within 15 days of notice of the suspension. At the hearing, the owner of the appropriation right has the burden of proof to prove lack of adverse effects.

(ii) If the owner proves by a preponderance of the evidence that the water rights of other appropriators will not be adversely affected by the lease, the department shall issue an order reinstating the authorization for the beneficial use of the leased appropriation right.

(iii) If the department determines that the water rights of other appropriators have been or will be adversely affected by the lease, the department may revoke the authorization or modify its approval with necessary terms, conditions, restrictions, or limitations.

(d) A person who purposely, with malicious intent, causes the suspension of a temporary lease pursuant to this section through an objection found invalid and frivolous is, upon conviction, guilty of a misdemeanor and shall be fined an amount not to exceed \$500.

(12) Violations of this section are subject to the provisions of 85-2-114 and 85-2-122. This subsection does not limit the remedies available to an appropriator to enjoin or seek damages from the owner of an appropriation right who leased the water or from a lessee.

(13) The department shall report annually to the water policy interim committee provided for in 5-5-231 in accordance with 5-11-210. The report must include the number of leases, the amount of water leased, and the number of irrigated acres taken out of production.

(14) Pursuant to 85-20-1902, the provisions of this section do not apply within the exterior boundaries of the Flathead Indian reservation.

Section 2. Section 85-2-102, MCA, is amended to read:

“85-2-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) “Appropriate” or “appropriation” means:

(a) to divert, impound, or withdraw, including by stock for stock water, a quantity of water for a beneficial use;

(b) in the case of a public agency, to reserve water in accordance with 85-2-316;

(c) in the case of the department of fish, wildlife, and parks, to change an appropriation right to instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource in accordance with 85-2-436;

(d) in the case of the United States department of agriculture, forest service:

(i) instream flows and in situ use of water created in 85-20-1401, Article V; or

(ii) to change an appropriation right to divert or withdraw water under subsection (1)(a) to instream flow to protect, maintain, or enhance streamflows in accordance with 85-2-320;

(e) temporary changes or leases for instream flow to maintain or enhance instream flow to benefit the fishery resource in accordance with 85-2-408;

(f) a use of water for aquifer recharge or mitigation; or

(g) a use of water for an aquifer storage and recovery project as provided in 85-2-368.

(2) “Appropriation right” has the same meaning as “water right” as defined in this section.

(3) “Aquifer recharge” means either the controlled subsurface addition of water directly to the aquifer or controlled application of water to the ground surface for the purpose of replenishing the aquifer to offset adverse effects resulting from net depletion of surface water.

(4) “Aquifer storage and recovery project” means a project involving the use of an aquifer to temporarily store water through various means, including but not limited to injection, surface spreading and infiltration, drain fields, or another department-approved method. The stored water may be either pumped from the injection well or other wells for beneficial use or allowed to naturally drain away for a beneficial use.

(5) “Beneficial use”, unless otherwise provided, means:

(a) a use of water for the benefit of the appropriator, other persons, or the public, including but not limited to agricultural, stock water, domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses;

(b) a use of water appropriated by the department for the state water leasing program under 85-2-141 and of water leased under a valid lease issued by the department under 85-2-141;

(c) a use of water by the department of fish, wildlife, and parks through a change in an appropriation right for instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource authorized under 85-2-436;

(d) a use of water through a temporary change in appropriation right or lease to enhance instream flow to benefit the fishery resource in accordance with 85-2-408;

(e) *a use of water through a temporary lease of an appropriation right approved by the department pursuant to [section 1];*

(~~e~~)(f) a use of water for aquifer recharge or mitigation; or

(~~f~~)(g) a use of water for an aquifer storage and recovery project as provided in 85-2-368.

(6) “Certificate” means a certificate of water right issued by the department.

(7) (a) “Change in appropriation right” means a change in the place of diversion, the place of use, the purpose of use, or the place of storage.

(b) The term does not include a change in water use related to the method of irrigation.

(8) “Commission” means the fish and wildlife commission provided for in 2-15-3402.

(9) “Correct and complete” means that the information required to be submitted conforms to the standard of substantial credible information and that all of the necessary parts of the form requiring the information have been filled in with the required information for the department to begin evaluating the information.

(10) “Declaration” means the declaration of an existing right filed with the department under section 8, Chapter 452, Laws of 1973.

(11) “Department” means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(12) “Developed spring” means any point where ground water emerges naturally, that has subsequently been physically altered, and from which ground water flows under natural pressures or is artificially withdrawn.

(13) “Existing right” or “existing water right” means a right to the use of water that would be protected under the law as it existed prior to July 1, 1973. The term includes federal non-Indian and Indian reserved water rights created under federal law and water rights created under state law.

(14) “Ground water” means any water that is beneath the ground surface.

(15) "Late claim" means a claim to an existing right forfeited pursuant to the conclusive presumption of abandonment under 85-2-226.

(16) "Mitigation" means the reallocation of surface water or ground water through a change in appropriation right or other means that does not result in surface water being introduced into an aquifer through aquifer recharge to offset adverse effects resulting from net depletion of surface water.

(17) "Municipality" means an incorporated city or town organized and incorporated under Title 7, chapter 2.

(18) (a) "National forest system lands" means all lands within Montana that are owned by the United States and administered by the secretary of agriculture through the forest service.

(b) The term does not include any lands within the exterior boundaries of national forest system units that are not owned by the United States and administered by the secretary of agriculture through the forest service.

(19) "Nonconsumptive use" means a beneficial use of water that does not cause a reduction in the source of supply and in which substantially all of the water returns without delay to the source of supply, causing little or no disruption in stream conditions.

(20) "Permit" means the permit to appropriate issued by the department under 85-2-301 through 85-2-303 and 85-2-306 through 85-2-314.

(21) "Person" means an individual, association, partnership, corporation, state agency, political subdivision, the United States or any agency of the United States, or any other entity.

(22) (a) "Political subdivision" means any county, incorporated city or town, public corporation, or district created pursuant to state law or other public body of the state empowered to appropriate water.

(b) The term does not mean a private corporation, association, or group.

(23) "Salvage" means to make water available for beneficial use from an existing valid appropriation through application of water-saving methods.

(24) "State water reservation" means a water right created under state law after July 1, 1973, that reserves water for existing or future beneficial uses or that maintains a minimum flow, level, or quality of water throughout the year or at periods or for defined lengths of time.

(25) "Stream depletion zone" means an area where hydrogeologic modeling concludes that as a result of a ground water withdrawal, the surface water would be depleted by a rate equal to at least 30% of the ground water withdrawn within 30 days after the first day a well or developed spring is pumped at a rate of 35 gallons a minute.

(26) "Substantial credible information" means probable, believable facts sufficient to support a reasonable legal theory upon which the department should proceed with the action requested by the person providing the information.

(27) "Waste" means the unreasonable loss of water through the design or negligent operation of an appropriation or water distribution facility or the application of water to anything but a beneficial use.

(28) "Water" means all water of the state, surface and subsurface, regardless of its character or manner of occurrence, including but not limited to geothermal water, diffuse surface water, and sewage effluent.

(29) "Water division" means a drainage basin as defined in 3-7-102.

(30) "Water judge" means a judge as provided for in Title 3, chapter 7.

(31) "Water master" means a master as provided for in Title 3, chapter 7.

(32) "Water right" means the right to appropriate water pursuant to an existing right, a permit, a certificate of water right, a state water reservation, or a compact.

(33) “Watercourse” means any naturally occurring stream or river from which water is diverted for beneficial uses. It does not include ditches, culverts, or other constructed waterways.

(34) “Well” means any artificial opening or excavation in the ground, however made, by which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn.”

Section 3. Section 85-2-404, MCA, is amended to read:

“85-2-404. Abandonment of appropriation right. (1) If an appropriator ceases to use all or a part of an appropriation right with the intention of wholly or partially abandoning the right or if the appropriator ceases using the appropriation right according to its terms and conditions with the intention of not complying with those terms and conditions, the appropriation right is, to that extent, considered abandoned and must immediately expire.

(2) If an appropriator ceases to use all or part of an appropriation right or ceases using the appropriation right according to its terms and conditions for a period of 10 successive years and there was water available for use, there is a prima facie presumption that the appropriator has abandoned the right for the part not used.

(3) If an appropriator ceases to use all or part of an appropriation right in compliance with a candidate conservation agreement initiated pursuant to 50 CFR 17.32 or because the land to which the water is applied to a beneficial use is contracted under a state or federal conservation set-aside program:

(a) the set-aside and resulting reduction in use of the appropriation right does not represent an intent by the appropriator to wholly or partially abandon the appropriation right or to not comply with the terms and conditions attached to the right; and

(b) the period of nonuse that occurs for part or all of the appropriation right as a result of the contract may not create or may not be added to any previous period of nonuse to create a prima facie presumption of abandonment.

(4) The lease of an existing right pursuant to 85-2-436, *or* a temporary change in appropriation right pursuant to 85-2-407 or 85-2-408, *or a temporary lease of an appropriation right pursuant to [section 1]* does not constitute an abandonment or serve as evidence that could be used to establish an abandonment of any part of the right.

(5) Subsections (1) and (2) do not apply to existing rights until they have been finally determined in accordance with part 2 of this chapter.”

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 85, chapter 2, part 4, and the provisions of Title 85, chapter 2, part 4, apply to [section 1].

Approved May 1, 2025

CHAPTER NO. 348

[SB 221]

AN ACT PROVIDING FOR A GREENHOUSE GAS ASSESSMENT UNDER THE MONTANA ENVIRONMENTAL POLICY ACT; REVISING DIRECTIONS FOR ENVIRONMENTAL REVIEWS RELATED TO GREENHOUSE GAS ASSESSMENTS; PROVIDING DEFINITIONS; AMENDING SECTIONS 75-1-201, 75-1-202, AND 75-1-220, MCA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Montana Supreme Court found that the Montana Environmental Policy Act (MEPA) “must be construed in harmony with

the substantive limitations of an agency's applicable regulatory authority" (paragraph 30, *Bitterrooters for Planning, Inc. v. Montana Department of Environmental Quality*, 2017 MT 222, 388 Mont. 453, 401 P.3d 712), but also found that the Legislature granted broad authority to the Department of Environmental Quality (paragraph 53, *Montana Environmental Information Center v. Department of Environmental Quality*, DA 23-0225 (2023)); and

WHEREAS, the Legislature is troubled by the court's overreach and strongly disagrees with the court's Held decision but recognizes that without providing direction and clear statutory sideboard, there will be regulatory uncertainty and unnecessary, expensive, and continued litigation; and

WHEREAS, the earth's climate has never been in stasis, and there are different scientific views of the degree to which human activities are influencing current climatological trends and the degree to which the curtailment of human activities would affect current trends; and

WHEREAS, the court notes that section 75-1-201(4)(a), MCA, clarifies that an "agency may not withhold, deny, or impose conditions on any permit or other authority to act based on" MEPA alone. MEPA thus provides a review process for an agency's permitting consideration; it is not a regulatory enforcement law. MEPA expresses the Legislature's intent that state agencies fully consider all aspects of a proposal and ensure that "the public is informed of the anticipated impacts in Montana of potential state actions" (paragraph 57, *Montana Environmental Information Center v. Department of Environmental Quality*, DA 23-0225 (2023)); and

WHEREAS, the court stipulates that "we did not hold in Held, and do not hold here, that DEQ is required to analyze GHG [greenhouse gas] emissions for every potential state action...nor do we hold that DEQ must regulate GHG emissions in an air quality permit application"; and

WHEREAS, the court further stipulates the department's lack of substantive authority to regulate greenhouse gases and lack of authority to grant or deny a permit based on greenhouse gas emissions does not absolve the agency from conducting analysis of greenhouse gas emissions in a MEPA review (paragraph 58, *Montana Environmental Information Center v. Department of Environmental Quality*, DA 23-0225 (2023)); and

WHEREAS, with the court's recognitions of the regulatory limitations of MEPA to deny a permit based on greenhouse gas emissions analysis and the department's recognition of its "obligation to make an adequate compilation of relevant information, to analyze it reasonably, and to consider all pertinent data," (paragraph 61, *Montana Environmental Information Center v. Department of Environmental Quality*, DA 23-0225 (2023)), the Legislature directs the department to conduct an analysis of greenhouse gas emissions for state actions involving fossil fuel activities; and

WHEREAS, the Legislature stipulates that the greenhouse gas analysis is intended to satisfy the informational requirements under MEPA and that greenhouse gases will not be regulated.

Be it enacted by the Legislature of the State of Montana:

Section 1. Greenhouse gas assessment. (1) Except as provided in 75-1-201(3), a state agency, when conducting an environmental review in accordance with parts 1 through 3 of this chapter:

(a) may conduct a greenhouse gas assessment in accordance with 75-1-201 for a proposed action if the agency determines the assessment is necessary to meet the requirements of parts 1 through 3 of this chapter; or

(b) shall conduct a greenhouse gas assessment in accordance with 75-1-201 for a proposed action that is defined as a fossil fuel activity as provided in 75-1-220.

(2) A greenhouse gas assessment is not required for a proposed action exempted from review under parts 1 through 3 of this chapter or for categorical exclusions as provided in agency rules, programmatic review, or statute.

Section 2. Section 75-1-201, MCA, is amended to read:

“75-1-201. General directions – environmental impact statements.

(1) The legislature authorizes and directs that, to the fullest extent possible:

(a) the policies, regulations, and laws of the state must be interpreted and administered in accordance with the policies set forth in parts 1 through 3;

(b) under this part, all agencies of the state, except the legislature and except as provided in ~~subsections (2) and (3)~~ *subsection (3)*, shall:

(i) use a systematic, interdisciplinary approach that will ensure:

(A) ~~the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking for a state-sponsored project that may have an impact on the Montana human~~ *Montana’s environment* by projects in Montana; and

(B) that in any environmental review that is not subject to subsection (1)(b)(iv), when an agency considers alternatives, the alternative analysis will be in compliance with the provisions of subsections (1)(b)(iv)(C)(I) and (1)(b)(iv)(C)(II) and, if requested by the project sponsor or if determined by the agency to be necessary, subsection (1)(b)(iv)(C)(III);

(ii) identify and develop methods and procedures that will ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking for state-sponsored projects, along with economic and technical considerations;

(iii) identify and develop methods and procedures that will ensure that state government actions that may impact ~~the human environment in Montana~~ *Montana’s environment* are evaluated for regulatory restrictions on private property, as provided in subsection (1)(b)(iv)(D);

(iv) include in each recommendation or report on proposals for projects, programs, and other major actions of state government significantly affecting the quality of ~~the human environment in Montana~~ *Montana’s environment* a detailed statement on:

(A) the *proximate* environmental ~~impact~~ *impacts* of the proposed action;

(B) any *proximate* adverse effects on Montana’s environment that cannot be avoided if the ~~proposal~~ *proposed action* is implemented;

(C) alternatives to the proposed action. An analysis of any alternative included in the environmental review must comply with the following criteria:

(I) any alternative proposed must be reasonable, in that the alternative must be achievable under current technology and the alternative must be economically feasible as determined solely by the economic viability for similar projects having similar conditions and physical locations and determined without regard to the economic strength of the specific project sponsor;

(II) the agency proposing the alternative shall consult with the project sponsor regarding any proposed alternative, and the agency shall give due weight and consideration to the project sponsor’s comments regarding the proposed alternative;

(III) the agency shall complete a meaningful no-action alternative analysis. The no-action alternative analysis must include the projected beneficial and adverse environmental, social, and economic impact of the project’s noncompletion.

(D) any regulatory impacts on private property rights, including whether alternatives that reduce, minimize, or eliminate the regulation of private property rights have been analyzed. The analysis in this subsection (1)(b)(iv)(D) need not be prepared if the proposed action does not involve the regulation of private property.

(E) the relationship between local short-term uses of ~~the Montana human~~ *Montana's* environment and the maintenance and enhancement of long-term productivity;

(F) any irreversible and irretrievable commitments of resources that would be involved in the proposed action if it is implemented;

(G) the customer fiscal impact analysis, if required by 69-2-216; and

(H) the details of the beneficial aspects of the proposed project, both short-term and long-term, and the economic advantages and disadvantages of the proposal;

(v) in accordance with the criteria set forth in subsection (1)(b)(iv)(C), study, develop, and describe appropriate alternatives to recommend courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources. If the alternatives analysis is conducted for a project that is not a state-sponsored project and alternatives are recommended, the project sponsor may volunteer to implement the alternative. Neither the alternatives analysis nor the resulting recommendations bind the project sponsor to take a recommended course of action, but the project sponsor may agree pursuant to subsection (4)(b) to a specific course of action.

(vi) recognize the potential long-range character of environmental impacts in Montana and, when consistent with the policies of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize cooperation in anticipating and preventing a decline in the quality of Montana's environment;

(vii) make available to counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of Montana's environment;

(viii) initiate and use ecological information in the planning and development of resource-oriented projects; and

(ix) assist the legislature and the environmental quality council established by 5-16-101;

(c) prior to making any detailed statement as provided in subsection (1)(b)(iv), the responsible state official shall consult with and obtain the comments of any state agency that has jurisdiction by law or special expertise with respect to any environmental impact involved in Montana and with any Montana local government, as defined in 7-12-1103, that may be directly impacted by the project. The responsible state official shall also consult with and obtain comments from any state agency in Montana with respect to any regulation of private property involved. Copies of the statement and the comments and views of the appropriate state, federal, and local agencies that are authorized to develop and enforce environmental standards must be made available to the governor, the environmental quality council, and the public and must accompany the proposal through the existing agency review processes.

(d) a transfer of an ownership interest in a lease, permit, license, certificate, or other entitlement for use or permission to act by an agency, either singly or in combination with other state agencies, does not trigger review under subsection (1)(b)(iv) if there is not a material change in terms or conditions of the entitlement or unless otherwise provided by law.

(2) (a) ~~Except as provided in subsection (2)(b), an~~ An environmental review conducted pursuant to subsection (1) may ~~not include an evaluation of greenhouse gas emissions and corresponding impacts to the climate in the state or beyond the state's borders a greenhouse gas assessment subject to [section 1].~~ The department of environmental quality shall develop a guidance document for use by state agencies to determine when a greenhouse gas assessment may be necessary. The guidance must include direction on methodologies for completing a greenhouse gas assessment. Prior to finalizing this guidance, the department shall provide public notice of the draft guidance and allow for public comment.

(b) An environmental review conducted pursuant to subsection (1) may include ~~an evaluation~~ an evaluation of the reasonably foreseeable environmental impacts of a proposed action if:

(i) ~~conducted jointly by a state agency and a federal agency to the extent the review of the expanded assessment is required by the federal agency; or~~

(ii) ~~the United States congress amends the federal Clean Air Act to include carbon dioxide emissions as a regulated pollutant.~~

(3) The department of public service regulation, in the exercise of its regulatory authority over rates and charges of railroads, motor carriers, and public utilities, is exempt from the provisions of parts 1 through 3.

(4) (a) The agency may not withhold, deny, or impose conditions on any permit or other authority to act based on parts 1 through 3 of this chapter.

(b) Nothing in this subsection (4) prevents a project sponsor and an agency from mutually developing measures that may, at the request of a project sponsor, be incorporated into a permit or other authority to act.

(c) Parts 1 through 3 of this chapter do not confer authority to an agency that is a project sponsor to modify a proposed project or action.

(5) (a) (i) A challenge to an agency's environmental review under this part may only be brought against a final agency action decision and may only be brought in district court or in federal court, whichever is appropriate. A challenge may only be brought by a person who submits formal comments on the agency's environmental review prior to the agency's final decision, and the challenge must be limited to those issues addressed in those comments.

(ii) Any action or proceeding challenging a final agency action alleging failure to comply with or inadequate compliance with a requirement under this part must be brought within 60 days of the action that is the subject of the challenge.

(iii) For an action taken by the board of land commissioners or the department of natural resources and conservation under Title 77, "final agency action" means the date that the board of land commissioners or the department of natural resources and conservation issues a final environmental review document under this part or the date that the board approves the action that is subject to this part, whichever is later.

(b) Any action or proceeding under subsection (5)(a)(ii) must take precedence over other cases or matters in the district court unless otherwise provided by law.

(c) Any judicial action or proceeding brought in district court under subsection (5)(a) involving an equine slaughter or processing facility must comply with 81-9-240 and 81-9-241.

(6) (a) (i) In an action alleging noncompliance or inadequate compliance with a requirement of parts 1 through 3, including a challenge to an agency's decision that an environmental review is not required or a claim that the environmental review is inadequate, the agency shall compile and submit to the court the certified record of its decision at issue. The agency, prior to submitting the certified record to the court, shall assess and collect from the

person challenging the decision a fee to pay for actual costs to compile and submit the certified record. Except as provided in subsection (6)(b), the person challenging the decision has the burden of proving the claim by clear and convincing evidence contained in the record.

~~(ii) An action alleging noncompliance or inadequate compliance with a requirement of parts 1 through 3, including a challenge to an agency's decision that an environmental review is not required or a claim that the environmental review is inadequate based in whole or in part upon greenhouse gas emissions and impacts to the climate in Montana or beyond Montana's borders, cannot vacate, void, or delay a lease, permit, license, certificate, authorization, or other entitlement or authority unless the review is required by a federal agency or the United States congress amends the federal Clean Air Act to include carbon dioxide as a regulated pollutant.~~

~~(iii)(i)~~(ii) Except as provided in subsection (6)(b), in a challenge to the agency's decision or the adequacy of an environmental review, a court may not consider any information, including but not limited to an issue, comment, argument, proposed alternative, analysis, or evidence, that was not first presented to the agency for the agency's consideration prior to the agency's decision or within the time allowed for comments to be submitted.

~~(iv)(ii)~~(iii) Except as provided in subsection (6)(b), the court shall confine its review to the record certified by the agency. The court shall affirm the agency's decision or the environmental review unless the court specifically finds that the agency's decision was arbitrary and capricious.

~~(v)(iv)~~(iv) A customer fiscal impact analysis pursuant to 69-2-216 or an allegation that the customer fiscal impact analysis is inadequate may not be used as the basis of an action challenging or seeking review of the agency's decision.

(b) (i) When a party challenging the decision or the adequacy of the environmental review or decision presents information not in the record certified by the agency, the challenging party shall certify under oath in an affidavit that the information is new, material, and significant evidence that was not publicly available before the agency's decision and that is relevant to the decision or the adequacy of the agency's environmental review.

(ii) If upon reviewing the affidavit the court finds that the proffered information is new, material, and significant evidence that was not publicly available before the agency's decision and that is relevant to the decision or to the adequacy of the agency's environmental review, the court shall remand the new evidence to the agency for the agency's consideration and an opportunity to modify its decision or environmental review before the court considers the evidence as a part of the administrative record under review.

(iii) If the court finds that the information in the affidavit does not meet the requirements of subsection (6)(b)(i), the court may not remand the matter to the agency or consider the proffered information in making its decision.

(c) (i) The remedies provided in this section for successful challenges to a decision of the agency or the adequacy of the statement are exclusive.

(ii) Notwithstanding the provisions of 27-19-201 and 27-19-314, a court having considered the pleadings of parties and intervenors opposing a request for a temporary restraining order, preliminary injunction, permanent injunction, or other equitable relief may not enjoin the issuance or effectiveness of a license or permit or a part of a license or permit issued pursuant to Title 75 or Title 82 unless the court specifically finds that the party requesting the relief is more likely than not to prevail on the merits of its complaint given the uncontroverted facts in the record and applicable law and, in the absence of a

temporary restraining order, a preliminary injunction, a permanent injunction, or other equitable relief, that the:

(A) party requesting the relief will suffer irreparable harm in the absence of the relief;

(B) issuance of the relief is in the public interest. In determining whether the grant of the relief is in the public interest, a court:

(I) may not consider the legal nature or character of any party; and

(II) shall consider the implications of the relief on the local and state economy and make written findings with respect to both.

(C) relief is as narrowly tailored as the facts allow to address both the alleged noncompliance and the irreparable harm the party asking for the relief will suffer. In tailoring the relief, the court shall ensure, to the extent possible, that the project or as much of the project as possible can go forward while also providing the relief to which the applicant has been determined to be entitled.

(d) The court may issue a temporary restraining order, preliminary injunction, permanent injunction, or other injunctive relief only if the party seeking the relief provides a written undertaking to the court in an amount reasonably calculated by the court as adequate to pay the costs and damages sustained by any party that may be found to have been wrongfully enjoined or restrained by a court through a subsequent judicial decision in the case, including but not limited to lost wages of employees and lost project revenues for 1 year. If the party seeking an injunction or a temporary restraining order objects to the amount of the written undertaking for any reason, including but not limited to its asserted inability to pay, that party shall file an affidavit with the court that states the party's income, assets, and liabilities in order to facilitate the court's consideration of the amount of the written undertaking that is required. The affidavit must be served on the party enjoined. If a challenge for noncompliance or inadequate compliance with a requirement of parts 1 through 3 seeks to vacate, void, or delay a lease, permit, license, certificate, or other entitlement or authority, the party shall, as an initial matter, seek an injunction related to a lease, permit, license, certificate, or other entitlement or authority, and an injunction may only be issued if the challenger:

(i) proves there is a likelihood of succeeding on the merits;

(ii) proves there is a violation of an established law or regulation on which the lease, permit, license, certificate, or other entitlement or authority is based; and

(iii) subject to the demonstration of the inability to pay, posts the appropriate written undertaking.

(e) An individual or entity seeking a lease, permit, license, certificate, or other entitlement or authority to act may intervene in a lawsuit in court challenging a decision or statement by a department or agency of the state as a matter of right if the individual or entity has not been named as a defendant.

(f) Attorney fees or costs may not be awarded to the prevailing party in an action alleging noncompliance or inadequate compliance with a requirement of parts 1 through 3.

(7) For purposes of judicial review, to the extent that the requirements of this section are inconsistent with the provisions of the National Environmental Policy Act, the requirements of this section apply to an environmental review or any severable portion of an environmental review within the state's jurisdiction that is being prepared by a state agency pursuant to this part in conjunction with a federal agency proceeding pursuant to the National Environmental Policy Act.

(8) The director of the agency responsible for the determination or recommendation shall endorse in writing any determination of significance

made under subsection (1)(b)(iv) or any recommendation that a determination of significance be made.

(9) A project sponsor may request a review of the significance determination or recommendation made under subsection (8) by the appropriate board, if any. The appropriate board may, at its discretion, submit an advisory recommendation to the agency regarding the issue. The period of time between the request for a review and completion of a review under this subsection may not be included for the purposes of determining compliance with the time limits established for environmental review in 75-1-208.”

Section 3. Section 75-1-202, MCA, is amended to read:

“75-1-202. Agency rules to prescribe fees. Each agency of state government charged with the responsibility of issuing a lease, permit, contract, license, or certificate under any provision of state law may adopt rules prescribing fees that must be paid by a person, corporation, partnership, firm, association, or other private entity when an application for a lease, permit, contract, license, or certificate will require an agency to compile an environmental impact statement as prescribed by 75-1-201 and the agency has not made the finding under 75-1-205(1)(a). An agency shall determine whether it will be necessary to compile an environmental impact statement and assess a fee as prescribed by this section within any statutory timeframe for issuance of the lease, permit, contract, license, or certificate or, if no statutory timeframe is provided, within 90 days. Except as provided in 85-2-124, the fee assessed under this section may be used only to gather data and information necessary to compile an environmental impact statement as defined in parts 1 through 3. A fee may not be assessed if an agency intends only to file a negative declaration stating that the proposed project will not have a significant impact on the human *Montana’s* environment.”

Section 4. Section 75-1-220, MCA, is amended to read:

“75-1-220. Definitions. For the purposes of this part, the following definitions apply:

(1) “Alternatives analysis” means an evaluation of different parameters, mitigation measures, or control measures that would accomplish the same objectives as those included in the proposed action by the applicant. For a project that is not a state-sponsored project, it does not include an alternative facility or an alternative to the proposed project itself. The term includes alternatives required pursuant to Title 75, chapter 20.

(2) “Appropriate board” means, for administrative actions taken under this part by the:

(a) department of environmental quality, the board of environmental review, as provided for in 2-15-3502;

(b) department of fish, wildlife, and parks, the fish and wildlife commission, as provided for in 2-15-3402, and the state parks and recreation board, as provided for in 2-15-3406;

(c) department of transportation, the transportation commission, as provided for in 2-15-2502;

(d) department of natural resources and conservation for state trust land issues, the board of land commissioners, as provided for in Article X, section 4, of the Montana constitution;

(e) department of natural resources and conservation for oil and gas issues, the board of oil and gas conservation, as provided for in 2-15-3303; and

(f) department of livestock, the board of livestock, as provided for in 2-15-3102.

(3) “Complete application” means, for the purpose of complying with this part, an application for a permit, license, or other authorization that contains

all data, studies, plans, information, forms, fees, and signatures required to be included with the application sufficient for the agency to approve the application under the applicable statutes and rules.

(4) ~~“Cumulative impacts” means the collective impacts on the human environment within the borders of Montana~~ *Montana’s environment* of the proposed action when considered in conjunction with other past, present, and future actions related to the proposed action by location or generic type.

(5) *“Economic impacts” or “socioeconomic impacts” means the financial impacts that may occur to Montana’s local economy if the proposed action occurs.*

~~(5)(6)~~ *“Environmental review” means any environmental assessment, environmental impact statement, or other written analysis required under this part by a state agency of a proposed action to determine, examine, or document the effects and impacts of the proposed action on the quality of the human and physical environment within the borders of Montana* *Montana’s environment* as required under this part.

(7) (a) *“Fossil fuel activity” means a proposed action that authorizes the mining of coal, drilling for oil or natural gas, production of oil or natural gas, compression of oil or natural gas, or burning of coal, oil, or natural gas to generate energy for electricity.*

(b) *The term does not include:*

(i) *burning biomass for electricity or industrial purposes;*

(ii) *transportation or transportation-related activities, including rail activities; or*

(iii) *a water quality-related or a water quantity-related lease, permit, license, certificate, or other entitlement for use or permission to act by a state agency for fossil fuel activities.*

(8) *“Greenhouse gas emissions” means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.*

~~(6)(9)~~ *“Project sponsor” means any applicant, owner, operator, agency, or other entity that is proposing an action that requires an environmental review. If the action involves state agency-initiated actions on state trust lands, the term also includes each institutional beneficiary of any trust as described in The Enabling Act of Congress, approved February 22, 1899, 25 Stat. 676, as amended, the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329.*

(10) (a) *“Proposed action” means a project, program, or activity:*

(i) *to be directly implemented by an agency;*

(ii) *to be supported through a contract, grant, subsidy, loan, or other form of financial assistance from an agency either singly or in combination with other state agencies; or*

(iii) *requiring the issuance of a lease, permit, license, certificate, or other entitlement for use or permission to act by the agency either singly or in combination with other state agencies, except as provided in 77-1-121.*

(b) *The term does not mean:*

(i) *an upstream, downstream, or other indirect action that occurs independently or is caused in part or exclusively by the proposed action; or*

(ii) *an action that occurs regardless of the proposed action.*

~~(7)(11)~~ *“Public scoping process” means any process to determine the scope of an environmental review.*

~~(8)(12)~~ (a) *“State-sponsored project” means:*

(i) *a project, program, or activity initiated and directly undertaken by a state agency;*

(ii) except as provided in subsection ~~(8)(b)(i)~~ (12)(b)(i), a project or activity supported through a contract, grant, subsidy, loan, or other form of funding assistance from a state agency, either singly or in combination with one or more other state agencies; or

(iii) except as provided in subsection ~~(8)(b)(i)~~ (12)(b)(i), a project or activity authorized by a state agency acting in a land management capacity for a lease, easement, license, or other authorization to act.

(b) The term does not include:

(i) a project or activity undertaken by a private entity that is made possible by the issuance of permits, licenses, leases, easements, grants, loans, or other authorizations to act by the:

(A) department of environmental quality pursuant to Titles 75, 76, or 82;

(B) department of fish, wildlife, and parks pursuant to Title 87, chapter 4, part 4;

(C) board of oil and gas conservation pursuant to Title 82, chapter 11; or

(D) department of natural resources and conservation or the board of land commissioners pursuant to Titles 76, 77, 82, and 85; or

(ii) a project or activity involving the issuance of a permit, license, certificate, or other entitlement for permission to act by another agency acting in a regulatory capacity, either singly or in combination with other state agencies.”

Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 75, chapter 1, part 2, and the provisions of Title 75, chapter 1, part 2, apply to [section 1].

Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 7. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 349

[SB 487]

AN ACT REVISING LAWS RELATED TO THE MONTANA END OF WATCH TRUST; REQUIRING APPLICATIONS FOR PAYMENTS FROM THE END OF WATCH TRUST DUE TO CATASTROPHIC INJURY TO INCLUDE A WORKERS' COMPENSATION DETERMINATION OF PERMANENT AND TOTAL DISABILITY; ALLOWING LEGAL CHILDREN OF AN OFFICER TO RECEIVE PAYMENTS AFTER THEY TURN 18 IN CERTAIN CIRCUMSTANCES; PROVIDING RULEMAKING AUTHORITY TO THE DEPARTMENT OF JUSTICE; REVISING DEFINITIONS; AMENDING SECTIONS 2-15-2040, 2-15-2041, 2-15-2042, 2-15-2043, 2-15-2044, AND 2-15-2045, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Administration by department of justice – rulemaking authority. (1) The department of justice may assess a fee not to exceed 15% of the interest and earnings appropriated to the department from the trust for the purposes of administrating the end of watch trust fund.

(2) The department may adopt rules for the purposes of executing its obligations under 2-15-2040 through 2-15-2045 and [section 2]. This includes but is not limited to rules that create:

- (a) a process for distributing payments to applicants approved by the board;
- (b) a process through which the board approves or denies applications for payments distributed in accordance with this section;
- (c) guidelines for appeal of board decisions;
- (d) information security and document retention policies;
- (e) board training requirements; and
- (f) reporting requirements.

Section 2. Determination of eligibility – board approval – appeals. (1) A law enforcement officer or the officer's immediate family is eligible for payment from the end of watch trust after the board established in 2-15-2044 approves the application.

(2) A law enforcement officer or the officer's immediate family that meets the qualifications set forth in this chapter is not guaranteed or entitled to payments from the end of watch trust.

(3) A law enforcement officer or the officer's immediate family may appeal a decision by the board. An appeal must follow the process and all laws for contested cases prescribed in Title 2, chapter 4, part 6.

Section 3. Section 2-15-2040, MCA, is amended to read:

“2-15-2040. Definitions. For the purposes of 2-15-2040 through 2-15-2045 and [sections 1 and 2], the following definitions apply:

(1) “Board” means the Montana end of watch trust board established in 2-15-2044.

(2) “Catastrophic injury” means ~~an a physical, bodily~~ injury directly related to an individual's required employment duties with direct or proximate consequences that ~~renders the individual in need of 24-hour care, permanently incapacitates the individual, and~~ permanently prevents the individual from performing any ~~gainful form of work~~.

(3) “Department” means the department of justice.

(4) “Immediate family” means a law enforcement officer's spouse and *legal* dependent children under age 18 years of age, ~~including children to whom the law enforcement officer is a legal guardian.~~

(5) “In the line of duty” means *as the direct result of* an action taken by a law enforcement officer or an activity in which a law enforcement officer participated:

(a) as required or authorized by law, rule, regulation, condition of employment, or professional ethics; ~~and~~

(b) *in the course and scope of carrying out the law enforcement officer's sworn obligations; or*

~~(b)(c)~~ (c) for which compensation is provided by the officer's employer or would have been provided by the officer's employer if the officer had been on duty at the time the action in question was taken.

(6) “Law enforcement officer” means:

(a) a police officer, deputy sheriff, undersheriff, highway patrol officer, investigator appointed by the department of justice, fish and game warden, ~~park ranger~~, or other public safety officer *with arrest authority, employed by a state, local, or state-based tribal authority and certified by the public safety officer standards and training council; or*

(b) a sheriff.

(7) “Maximum medical improvement” *has the same meaning as provided in 39-71-116.*

(8) “Permanent total disability” *has the same meaning as provided in 39-71-116.”*

Section 4. Section 2-15-2041, MCA, is amended to read:

“2-15-2041. Montana end of watch trust. (1) There is a Montana end of watch trust within the permanent fund type for the purpose of supporting eligible law enforcement officers and their surviving immediate family in the event of an officer’s death or catastrophic injury in the line of duty.

~~(2) The department may accept contributions and gifts for the trust in money or other forms. When accepted, the contributions and gifts must be deposited in the trust.~~

(2) The department may accept financial contributions and gifts for the trust. When accepted, the contributions and gifts must be deposited in the trust.

~~(3)(3)~~ The legislature may transfer money to the trust.

~~(4)(4)~~ The state treasurer shall each month transfer from the trust to the *end of watch state special revenue* account established in 2-15-2042 the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account. Earnings not transferred to the account established in 2-15-2042 must be retained in the trust account. Any unexpended interest that transfers back into the trust can be appropriated if monthly obligations exceed the current available interest in the account. If this portion of the trust is appropriated in any fiscal year, the state treasurer shall transfer that same amount from the general fund to the trust in the following fiscal year. *Unexpended interest in excess of the principal of the trust may be used for trust-related litigation expenses in the event the administrative fees authorized in [section 1] are insufficient.*

~~(5)(5)~~ The board of investments shall invest money deposited in the fund established under this section as provided by law.”

Section 5. Section 2-15-2042, MCA, is amended to read:

“2-15-2042. Montana end of watch account – payment and cessation of payment. (1) There is a Montana end of watch state special revenue account within the state special revenue fund established in 17-2-102 administered by the department. Pursuant to 2-15-2041, all interest and earnings from the *end of watch* trust fund established in 2-15-2041 must be deposited into this fund.

(2) The department shall disburse payments to a qualifying law enforcement officer or the law enforcement officer’s immediate family ~~as provided in this section, contingent upon the board’s approval of the application for funds.~~

(3) (a) Payments for a catastrophic injury in the line of duty must be made to a catastrophically injured law enforcement officer on a monthly basis for 60 months from the date of the ~~injury~~ *board’s approval of the application for payments from the end of watch trust.*

(b) Applications to the board for payments related to a catastrophic injury must be accompanied by proof of maximum medical improvement. Applications must also include objective medical evidence for a permanent total disability.

~~(b)(c)~~ In the event the catastrophically injured law enforcement officer dies prior to receiving all 60 monthly payments, the department shall pay on a monthly basis the remainder of the 60 monthly payments to the law enforcement officer’s immediate family as follows:

(i) to the law enforcement officer’s surviving spouse until the surviving spouse remarries or dies; ~~or~~

(ii) if there is no surviving spouse or if the surviving spouse remarries or dies prior to the disbursement of all 60 monthly payments, then the remainder of the 60 monthly payments must be made to the law enforcement officer’s surviving ~~dependent~~ *legal* children under 18 years of age, in equal shares, and subject to the Uniform Transfers to Minors Act provided for in Title 72, chapter 26; ~~or~~

(iii) if any of the law enforcement officer's surviving legal children turn 18 years of age prior to the disbursement of all 60 monthly payments, the child will continue to receive funds until the remainder of the 60 monthly payments have been made, in equal shares, to each of the officer's surviving legal children.

~~(c)(d)~~ In the event there is no surviving spouse that has not remarried or surviving ~~dependent~~ legal children under 18 years of age, the payments must cease.

(4) (a) Payments for a law enforcement officer killed in the line of duty must be made to the law enforcement officer's surviving immediate family on a monthly basis for 60 months from the date of the ~~law enforcement officer's death~~ board's approval of the application. The department shall make the payments as follows:

(i) to the law enforcement officer's surviving spouse until the surviving spouse remarries or dies;

(ii) if there is no surviving spouse or if the surviving spouse remarries or dies prior to disbursement of all 60 monthly payments, then the remainder of the 60 monthly payments must be made to the law enforcement officer's surviving ~~dependent~~ legal children under 18 years of age, in equal shares, and subject to the Uniform Transfers to Minors Act provided for in Title, 72, chapter 26; or

(iii) if any of the law enforcement officer's surviving legal children turn 18 years of age prior to the disbursement of all 60 monthly payments, the child will continue to receive funds until the remainder of the 60 monthly payments have been made, in equal shares, to each of the officer's surviving legal children.

(b) In the event there is no surviving spouse that has not remarried or surviving ~~dependent~~ legal children under 18 years of age, the payments must cease.

(5) A maximum of 60 monthly payments may be made to a law enforcement officer's surviving immediate family under this section. In the event a catastrophically injured officer receiving benefits under this section dies, funds must be distributed to the surviving immediate family until the remainder of the 60 monthly payments for the catastrophic injury have been made. The immediate family are not eligible for additional payments after the full 60 monthly payments from the catastrophic injury have been paid.

~~(5)(6)~~ (a) For the first 12 months following the date of the ~~catastrophic event or death~~ the board approves an application, the monthly payment due to a qualifying law enforcement officer or the law enforcement officer's immediate family under this section is \$7,000 a month, *subject to an annual increase according to the consumer price index of July 1, 2025, or an annual increase of 3%, whichever is less.*

(b) For months 13 through 60 following the date of the ~~catastrophic event or death~~ the board approves an application, the monthly payment due to a qualifying law enforcement officer or the law enforcement officer's immediate family under this section is:

(i) \$7,000, subject to an annual increase according to the consumer price index *as of July 1, 2025, or 3%, whichever is less;*

(ii) minus the sum of:

(A) one-half of the workers' compensation monthly benefit based on the employment of the qualifying law enforcement officer paid to the law enforcement officer or the law enforcement officer's immediate family; and

(B) one-half of the state retirement monthly benefit paid based on the employment of the qualifying law enforcement officer to the law enforcement officer or the law enforcement officer's immediate family.

~~(6)(7)~~ The money in the account is subject to legislative appropriation.

(7)(8) All payments under this section are exempt from execution without limit as provided in 25-13-608.”

Section 6. Section 2-15-2043, MCA, is amended to read:

“2-15-2043. Certification of continued eligibility – notification of change in marital status – notification of date of birth. (1) Each year on the anniversary of the first payment made under 2-15-2042(3), the catastrophically injured law enforcement officer, surviving spouse, other immediate family member, or agent of the catastrophically injured law enforcement officer, surviving spouse, or other immediate family member, shall attest to the board on a form provided by the department that the law enforcement officer is still eligible under the definition of catastrophic injury in 2-15-2040. If the law enforcement officer is no longer eligible under the definition of catastrophic injury in 2-15-2040 or if the annual attestation is not submitted within ~~120~~ 30 days after the anniversary date of the first payment under 2-15-2042(3), the payment must cease.

(2) If payments are being made to a surviving spouse and the surviving spouse’s marital status changes, the surviving spouse shall notify the board of the change in marital status within ~~120~~ 30 days. On receipt of notification, the payment must be dispersed as directed in 2-15-2042(3) and (4).

(3) ~~On a form provided by the department and within 180 days of receipt of the first payment~~ *Prior to the disbursement of funds*, the catastrophically injured law enforcement officer, surviving spouse, other immediate family member, or agent of the catastrophically injured law enforcement officer, surviving spouse, or other immediate family member, shall provide the board with the identity and dates of birth of all ~~dependent~~ *legal* children of the law enforcement officer who were under 18 years of age at the time of the law enforcement officer’s catastrophic injury or date of death *on a form provided by the department.*”

Section 7. Section 2-15-2044, MCA, is amended to read:

“2-15-2044. Montana end of watch trust board. (1) There is a volunteer board to oversee the administration of the Montana end of watch trust provided for in 2-15-2041 *and to determine the eligibility of applicants seeking funds from the trust.* The board is attached to the department for administrative purposes only, as provided in 2-15-121.

(2) The board consists of five members appointed by the attorney general, including:

- (a) a representative of the Montana sheriffs and peace officers association;
- (b) a representative of the Montana police protective association;
- (c) a representative of the association of Montana troopers;
- (d) a representative of the Montana association of chiefs of police; and
- (e) a representative from the department.

(3) The board shall:

- (a) meet at least once each fiscal year;
- (b) ~~act as an advocate for law enforcement officers catastrophically injured in the line of duty and the surviving immediate family members of officers who died in the line of duty; and~~ *convene as necessary to review applications and determine the eligibility of applicants; and*

(c) ~~settle disputes and concerns regarding trust benefits;~~

(c) *review the board of investments annual report for the fund.*

(4) ~~The representatives in subsection (2) must be sworn actors of a participating agency.”~~

Section 8. Section 2-15-2045, MCA, is amended to read:

“2-15-2045. End of watch health insurance support. (1) (a) Local governments that employ a law enforcement officer and provide health insurance benefits to an officer, an officer’s spouse, or an officer’s dependents shall:

(i) enroll the officer and the officer's spouse and dependents in COBRA continuation coverage if the officer is catastrophically injured; and

(ii) enroll the officer's spouse and dependents in COBRA coverage if the officer dies in the line of duty.

(b) Continuation coverage under this section must provide for the same level of continuation coverage benefits as is available to other members of the group. Premiums charged to an officer, spouse, or dependent under this section must be the same as premiums charged to other similarly situated members of the group.

(c) Dependent special enrollment must be allowed under the terms of the insurance contract or plan.

(d) The provisions of this section are applicable to an officer, spouse, or dependent who is already insured under a COBRA continuation provision *and who was enrolled under the law enforcement officer's employee health plan at the time of the officer's catastrophic injury or death in the line of duty.*

(2) The law enforcement officer's employing agency shall pay the premium for 4 months after the catastrophic injury or death in the line of duty, after which the officer, spouse, or dependent ~~shall pay~~ *may continue paying* the premium *or allow the coverage to lapse.*

(3) The benefit plans may discontinue or not renew the coverage of an officer, spouse, or dependent only if:

(a) the officer, spouse, or dependent has failed to pay premiums or contributions for which the individual is responsible *pursuant to subsection (2);*

(b) the officer, spouse, or dependent has performed an act or practice that constitutes fraud or has made an intentional misrepresentation of a material fact under the terms of the coverage; or

(c) the state employee group benefit plans cease to offer coverage in accordance with applicable state law."

Section 9. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 2, chapter 15, part 20, and the provisions of Title 2, chapter 15, part 20, apply to [sections 1 and 2].

Section 10. Effective date. [This act] is effective on passage and approval.

Approved May 1, 2025

CHAPTER NO. 350

[SB 27]

AN ACT GENERALLY REVISING MARIJUANA BUSINESS LICENSING LAWS; CREATING A MORATORIUM ON THE ISSUANCE OF LICENSES FOR PREMISES; PROHIBITING LICENSEES FROM ADDING ADDITIONAL LICENSED PREMISES; AMENDING SECTIONS 16-12-104, 16-12-201, 16-12-210, 16-12-223, 16-12-224, AND 16-12-301, MCA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Montana Marijuana Regulation and Taxation Act, Chapter 576, Laws of 2021, set a moratorium on the issuance of licenses by the Department of Revenue; and

WHEREAS, the moratorium allows only certain people to be licensed by the department, generally those who held medical marijuana licenses prior to 2021; and

WHEREAS, this act seeks to remove the moratorium as it relates to license applicants, allowing for new people to apply and participate in the marijuana industry in this state; and

WHEREAS, to allow for the orderly growth of the recreational marijuana industry in this state, this act requires new licenses to be related to an existing licensed premises and prohibits the department's issuance of new location licenses for dispensaries until 2027.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 16-12-104, MCA, is amended to read:

"16-12-104. Department responsibilities – licensure. (1) The department shall establish and maintain a registry of persons who receive licenses under this chapter.

(2) (a) The department shall issue the following license types to persons who submit applications meeting the requirements of this chapter:

- (i) cultivator license;
- (ii) manufacturer license;
- (iii) adult-use dispensary license or a medical marijuana dispensary license;
- (iv) testing laboratory license.
- (v) marijuana transporter license.
- (vi) combined-use marijuana license.

(b) The department may establish other license types, subtypes, endorsements, and restrictions it considers necessary for the efficient administration of this chapter.

(3) A licensee may not cultivate hemp or engage in hemp manufacturing at a licensed premises.

(4) A person licensed to cultivate or manufacture marijuana or marijuana products is subject to the provisions contained in the Montana Pesticides Act provided for in Title 80, chapter 8.

(5) The department shall assess applications for licensure or renewal to determine if an applicant, controlling beneficial owner, or a person with a financial interest in the applicant meets any of the criteria established in this chapter for denial of a license.

(6) A license issued pursuant to this chapter must be displayed by the licensee as provided for in rule by the department.

(7) (a) Except as provided in subsection (8), the department shall review the information contained in an application or renewal submitted pursuant to this chapter and shall approve or deny an application:

(i) within 60 days of receiving the application or renewal and all related application materials from a ~~former medical marijuana licensee~~ or an existing licensee under this chapter; and

(ii) within 120 days of receiving the application and all related application materials from a new applicant.

(b) If the department fails to act on a completed application within the time allowed under subsection (7)(a), the department shall:

(i) reduce the cost of the licensing fee for a new applicant for licensure or endorsement or for a licensee seeking renewal of a license by 5% each week that the application is pending; and

(ii) allow a licensee to continue operation until the department takes final action.

(c) The department may not take final action on an application for a license or renewal of a license until the department has completed a satisfactory inspection as required by this chapter and related administrative rules.

(d) The department shall issue a license or endorsement within 5 days of approving an application or renewal.

(8) (a) The department may issue a probationary license under subsection (2)(a)(iv) only if:

(i) an applicant has completed the International Organization for Standardization application for assessment; and

(ii) there are no pending corrective actions to obtain International Organization for Standardization accreditation.

(b) A probationary license is valid for 180 days from the date of issue and may be renewed one time:

(i) if the application is denied after a good faith application effort; or

(ii) if the application remains pending International Organization for Standardization accreditation.

(c) If an applicant voluntarily closes the application process after receiving a probationary license, the applicant may not receive a second probationary license for 2 years.

(9) (a) Review of a rejection of an application or renewal may be conducted as a contested case hearing before the department's office of dispute resolution pursuant to the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department of revenue concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (9)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision.

(10) Licenses issued under this chapter must be renewed annually.

(11) (a) The department shall provide the names and phone numbers of persons, including the names of controlling beneficial owners, licensed under this chapter and the city, town, or county where licensed premises are located to the public on the department's website. Except as provided in subsection (11)(b), the department may not disclose the physical location or address of a marijuana business.

(b) The department may share the physical location or address of a marijuana business with another state agency, political subdivision, and the state fire marshal.

(c) The name of a controlling beneficial owner is not considered confidential information as defined in 2-6-1002.

(12) The department may not prohibit a cultivator, manufacturer, or adult-use dispensary licensee operating in compliance with the requirements of this chapter from operating at a shared location with a medical marijuana dispensary.

(13) The department may not adopt rules requiring a consumer to provide a licensee with identifying information other than government-issued identification to determine the consumer's age. A licensee that scans a person's driver's license using an electronic reader to determine the person's age:

(a) may only use data or metadata from the scan determine the person's age;

(b) may not transfer or sell that data or metadata to another party; and

(c) shall permanently delete any data or metadata from the scan within 180 days, unless otherwise provided for in this chapter or by the department.

(14) (a) Except as provided in subsection (14)(b), licenses issued by the department under this chapter are nontransferable.

(b) A licensee may sell its marijuana business, including live plants, inventory, and material assets, to a person who is licensed by the department under the provisions of this chapter. The department may, in its discretion, issue a temporary license to the acquiring party to facilitate the transfer of the licensee's marijuana business.

(15) A person who is not a controlling beneficial owner in a licensee may not receive or otherwise obtain an ownership interest in a licensee that results in the person becoming a controlling beneficial owner unless the licensee notifies, in writing, the department of the proposed transaction and the department determines that the person qualifies for ownership under the provisions of this chapter."

Section 2. Section 16-12-201, MCA, is amended to read:

"16-12-201. Licensing of cultivators, manufacturers, and dispensaries. (1) (a) ~~Between January 1, 2022, and June 30, 2025~~ *July 1, 2025, and June 30, 2027*, the department: ~~may only accept applications from and issue licenses to former medical marijuana licensees that were licensed by or had an application pending with the department of public health and human services on April 27, 2021, and are in good standing with the department and in compliance with this chapter, rules adopted by the department, and any applicable local regulations or ordinances as of January 1, 2022~~

(i) may accept applications from and issue licenses to persons qualified for licensure under this chapter only if the application is related to an existing licensed premises;

(ii) may allow a licensee to move an existing licensed premises; and

(iii) may not allow for new licensed premises.

~~(b) The department shall begin accepting applications for and issuing licenses to cultivate, manufacture, or sell marijuana or marijuana products to applicants who are not former medical marijuana licensees under subsection (1)(a) on or after July 1, 2025. On or after July 1, 2027, the department shall begin accepting applications for and issuing licenses to cultivate, manufacture, or sell marijuana or marijuana products to applicants who were not previously licensed and for premises not previously licensed.~~

~~(2) (a) The department shall adopt rules to govern the operation of former medical marijuana licensees and facilitate the process of transitioning former medical marijuana licensees to the appropriate license under this chapter with a minimum of disruption to business operations.~~

~~(b)(2) Beginning January 1, 2022, a former medical marijuana A licensee may sell marijuana and marijuana products to registered cardholders at the medical tax rate set forth in 15-64-102 and to consumers at the adult-use marijuana tax rate set forth in 15-64-102 under the licensee's existing license in a jurisdiction that allows for the operation of marijuana businesses pursuant to 16-12-301 until the former medical marijuana licensee's next license renewal date, by which time the former medical licensee must have applied for and obtained the appropriate licensure under this chapter to continue operations, unless an extension of time is granted by the department.~~

~~(c) (i) Except as provided in subsection (2)(c)(ii), for the purpose of this subsection (2), "appropriate licensure" means a cultivator license, medical marijuana dispensary license, adult-use dispensary license, and, if applicable, a manufacturer license.~~

~~(ii) A former medical marijuana licensee who sells marijuana and marijuana products exclusively to registered cardholders is not required to obtain an adult-use dispensary license.~~

(3) The department may amend or issue licenses to provide for staggered expiration dates. The department may provide for initial license terms of greater than 12 months but no more than 23 months in adopting staggered expiration dates. Thereafter, licenses expire annually. License fees for the license term implementing staggered license terms may be prorated by the department.”

Section 3. Section 16-12-210, MCA, is amended to read:

“16-12-210. Inspections – procedures – prohibition on inspector affiliation with licensees. (1) (a) The department shall conduct unannounced inspections of licensed premises.

(b) The department may not conduct more than two unannounced inspections of a licensed premises per year unless a citation has been issued to a licensee at the premises within the last 2 years or there is other just and reasonable cause.

(2) (a) The department shall inspect annually each premises operated by a licensee.

(b) The department may collect samples during the inspection of a licensed premises and submit the samples to a testing laboratory or the analytical laboratory authorized by 80-1-104 for testing as provided by the department by rule.

(3) (a) Each licensee shall keep a complete set of records necessary to show all transactions with consumers and registered cardholders. The records must be open for inspection by the department and state or local law enforcement agencies.

(b) Each testing laboratory shall keep:

(i) a complete set of records necessary to show all transactions with a licensee; and

(ii) all data, including instrument raw data, pertaining to the testing of marijuana and marijuana products.

(c) The records and data required under this subsection (3) must be open for inspection by the department and state or local law enforcement agencies.

(d) The department may require a licensee to furnish information that the department considers necessary for the proper administration of this chapter.

(4) (a) Each licensed premises, including any places of storage, where marijuana is cultivated, manufactured, sold, stored, or tested are subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation.

(b) If any part of a licensed premises consists of a locked area, the licensee shall make the area available for inspection immediately upon request of the department or state or local law enforcement officials.

(5) The department may not hire or contract with a person to be an inspector if the person, during the previous 4 years, was or worked for a Montana business or facility operating under this chapter or a ~~former medical marijuana~~ licensee.

(6) In addition to any other penalties provided under this chapter, the department may revoke, suspend for up to 1 year, or refuse to renew a license or endorsement issued under this chapter if, upon inspection and subsequent notice to the licensee, the department finds that any of the following circumstances exist:

(a) a cause for which issuance of the license or endorsement could have been rejected had it been known to the department at the time of issuance;

(b) a violation of an administrative rule adopted to carry out the provisions of this chapter; or

(c) noncompliance with any provision of this chapter.

(7) The department may suspend or modify a license or endorsement without advance notice upon a finding that presents an immediate threat to the health, safety, or welfare of consumers, employees of the licensee, or members of the public. The department may establish by rule the applicable procedures for securing or disposing of the inventory in such circumstances.

(8) (a) Review of a department action imposing a suspension, revocation, or other modification under this chapter must be conducted as a contested case hearing before the department's office of dispute resolution under the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department of revenue concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (8)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision.

(9) The department shall establish a training protocol to ensure uniform application and enforcement of the requirements of this chapter.

(10) The department shall report biennially to the economic affairs interim committee concerning the results of inspections conducted under this section. The report must include the information required under 16-12-110."

Section 4. Section 16-12-223, MCA, is amended to read:

"16-12-223. Licensing of cultivators. (1) (a) The department shall license cultivators according to a tiered canopy system. Except as provided in subsection (6), all cultivation that is licensed under this chapter may only occur at an indoor cultivation facility.

(b) Except as provided in subsection (6), the system must include, at a minimum, the following license types:

(i) A micro tier canopy license allows for a canopy of up to 250 square feet at one indoor cultivation facility.

(ii) A tier 1 canopy license allows for a canopy of up to 1,000 square feet at one indoor cultivation facility.

(iii) A tier 2 canopy license allows for a canopy of up to 2,500 square feet at up to two indoor cultivation facilities.

(iv) A tier 3 canopy license allows for a canopy of up to 5,000 square feet at up to three indoor cultivation facilities.

(v) A tier 4 canopy license allows for a canopy of up to 7,500 square feet at up to four indoor cultivation facilities.

(vi) A tier 5 canopy license allows for a canopy of up to 10,000 square feet at up to five indoor cultivation facilities.

(vii) A tier 6 canopy license allows for a canopy of up to 13,000 square feet at up to five indoor cultivation facilities.

(viii) A tier 7 canopy license allows for a canopy of up to 15,000 square feet at up to five indoor cultivation facilities.

(ix) A tier 8 canopy license allows for a canopy of up to 17,500 square feet at up to five indoor cultivation facilities.

(x) A tier 9 canopy license allows for a canopy of up to 20,000 square feet at up to six indoor cultivation facilities.

(xi) A tier 10 canopy license allows for a canopy of up to 30,000 square feet at up to seven indoor cultivation facilities.

(xii) A tier 11 canopy license allows for a canopy of up to 40,000 square feet at up to eight indoor cultivation facilities.

(xiii) A tier 12 canopy license allows for a canopy of up to 50,000 square feet at up to nine indoor cultivation facilities.

(c) A cultivator shall demonstrate that the local government approval provisions in 16-12-301 have been satisfied for the jurisdiction where each proposed indoor cultivation facility or facilities is or will be located if a proposed facility would be located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(d) When evaluating an initial or renewal license application, the department shall evaluate each proposed indoor cultivation facility for compliance with the provisions of 16-12-207 and 16-12-210.

(e) (i) Except as provided in subsection (1)(e)(iii), a cultivator who has reached capacity under the existing license may apply to advance to the next licensing tier in conjunction with a regular renewal application by demonstrating that:

(A) the cultivator is using the full amount of canopy currently authorized;

(B) the tracking system shows the cultivator is selling at least 80% of the marijuana produced by the square footage of the cultivator's existing license over the 2 previous quarters or the cultivator can otherwise demonstrate to the department that there is a market for the marijuana it seeks to produce; and

(C) its proposed additional or expanded indoor cultivation facility or facilities are located in a jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or that they are located in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election.

(ii) Except as provided in subsection (1)(e)(iii), the department may increase a licensure level by only one tier at a time.

(iii) A cultivator under a combined-use license may increase its licensure level by more than one tier at a time, up to a tier 5 canopy license, without meeting the requirements of subsections (1)(e)(i)(A) and (1)(e)(i)(B).

(iv) The department shall conduct an inspection of the cultivator's registered premises and proposed premises within 30 days of receiving the application and before approving the application.

(f) A marijuana business that has not been issued a license before July 1, 2025, must be initially licensed at a tier 2 canopy license or lower.

(2) The department is authorized to create additional tiers as necessary.

(3) The department may adopt rules:

(a) for inspection of proposed indoor cultivation facilities under subsection (1);

(b) for investigating owners or applicants for a determination of financial interest; and

(c) in consultation with the department of agriculture and based on well-supported science, to require licensees to adopt practices consistent with the prevention, introduction, and spread of insects, diseases, and other plant pests into Montana.

(4) Initial licensure and annual fees for these licensees are:

(a) \$1,000 for a cultivator with a micro tier canopy license;

(b) \$2,500 for a cultivator with a tier 1 canopy license;

(c) \$5,000 for a cultivator with a tier 2 canopy license;

- (d) \$7,500 for a cultivator with a tier 3 canopy license;
- (e) \$10,000 for a cultivator with a tier 4 canopy license;
- (f) \$13,000 for a cultivator with a tier 5 canopy license;
- (g) \$15,000 for a cultivator with a tier 6 canopy license;
- (h) \$17,500 for a cultivator with a tier 7 canopy license;
- (i) \$20,000 for a cultivator with a tier 8 canopy license;
- (j) \$23,000 for a cultivator with a tier 9 canopy license;
- (k) \$27,000 for a cultivator with a tier 10 canopy license;
- (l) \$32,000 for a cultivator with a tier 11 canopy license; and
- (m) \$37,000 for a cultivator with a tier 12 canopy license.

(5) The fee required under this part may be imposed based only on the tier of licensure and may not be applied separately to each indoor cultivation facility used for cultivation under the licensure level.

(6) A former medical marijuana licensee who engaged in outdoor cultivation before November 3, 2020, may continue to engage in outdoor cultivation.”

Section 5. Section 16-12-224, MCA, is amended to read:

“16-12-224. Licensing of dispensaries. (1) ~~Except as provided in 16-12-201(2), an~~ An applicant for a dispensary license shall demonstrate that the local government approval provisions in 16-12-301 have been satisfied in the jurisdiction where each proposed dispensary is located if the proposed dispensary would be located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(2) When evaluating an initial or renewal application, the department shall evaluate each proposed dispensary for compliance with the provisions of 16-12-207 and 16-12-210.

(3) An adult-use dispensary licensee may operate at a shared location with a medical marijuana dispensary if the adult-use dispensary and medical marijuana dispensary are owned by the same person.

(4) A medical marijuana dispensary is authorized to sell exclusively to registered cardholders marijuana, marijuana products, and live marijuana plants.

(5) An adult-use dispensary is authorized to sell marijuana, marijuana products, and live marijuana plants to consumers or registered cardholders.

(6) (a) The department shall charge a dispensary license fee for an initial application and at each renewal.

(b) The dispensary license fee is \$5,000 for the first location that a licensee operates as an adult-use dispensary or a medical marijuana dispensary. The dispensary license fee increases cumulatively by \$5,000 for each additional location under the same license.

(7) The department may adopt rules:

(a) for inspection of proposed dispensaries;

(b) for investigating owners or applicants for a determination of financial interest; and

(c) establishing or limiting the THC content of the marijuana or marijuana products that may be sold at an adult-use dispensary or medical marijuana dispensary.

(8) (a) Marijuana and marijuana products sold at a dispensary are regulated and sold on the basis of the concentration of THC in the products and not by weight.

(b) Except as provided in subsection (8)(d), for purposes of this chapter, a single package is limited to:

(i) for marijuana sold as flower, 1 ounce of usable marijuana. The total potential psychoactive THC of marijuana flower may not exceed 35%.

(ii) for a marijuana product sold as a capsule, no more than 100 milligrams of THC per capsule and no more than 800 milligrams of THC per package.

(iii) for a marijuana product sold as a tincture, no more than 800 milligrams of THC;

(iv) for a marijuana product sold as an edible or a food product, no more than 100 milligrams of THC. A single serving of an edible marijuana product may not exceed 10 milligrams of THC.

(v) for a marijuana product sold as a topical product, a concentration of no more than 6% THC and no more than 800 milligrams of THC per package;

(vi) for a marijuana product sold as a suppository or transdermal patch, no more than 100 milligrams of THC per suppository or transdermal patch and no more than 800 milligrams of THC per package; and

(vii) for any other marijuana product, no more than 800 milligrams of THC.

(c) There may be a deviation of 10% above or below the allowed amount under subsection (8)(b)(iv).

(d) A dispensary may sell marijuana or marijuana products having higher THC potency levels than described in subsection (8) to registered cardholders.

(9) A licensee or employee is prohibited from conducting a transaction that would result in a consumer or registered cardholder exceeding the personal possession amounts set forth in 16-12-106 and 16-12-515."

Section 6. Section 16-12-301, MCA, is amended to read:

"16-12-301. Local government authority to regulate -- opt-in requirement in certain counties -- exemption for existing licensees.

(1) (a) Except as provided in subsection (1)(b), a marijuana business may not operate in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election until:

(i) the category or categories of license that the marijuana business seeks has or have been approved by the local jurisdiction where the marijuana business intends to operate as provided in subsection (3) or (4); and

(ii) the business is licensed by the department pursuant to this chapter.

(b) A former medical marijuana licensee that does not apply for licensure as an adult-use dispensary may operate in its existing premises in compliance with rules adopted by the department pursuant to ~~16-12-201(2)~~ 16-12-201 notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through (6).

(c) A former medical marijuana licensee that intends to apply for licensure as a cultivator, manufacturer, adult-use dispensary, or testing laboratory may operate in compliance with rules adopted by the department pursuant to ~~16-12-201(2)~~ 16-12-201 notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through (6), provided that the **former marijuana** licensee has remained in good standing with the department.

(d) For the purpose of this section, the marijuana business categories that must be approved by a local jurisdiction under subsections (3) through (6) in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election before a business may operate are:

(i) cultivator;

(ii) manufacturer;

(iii) medical marijuana dispensary, except as provided in subsection (1)(b);

(iv) adult-use dispensary;

(v) combined-use marijuana licensee;

(vi) testing laboratory; and

(vii) marijuana transporter facility.

(e) Marijuana businesses located in counties in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election are not subject to the local government approval process under subsections (3) through (6).

(2) (a) To protect the public health, safety, or welfare, a local government may by ordinance or otherwise regulate a marijuana business that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of licensed premises, including but not limited to indoor cultivation facilities, dispensaries, manufacturing facilities, and testing laboratories in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.

~~(b) A former medical marijuana licensee that does not apply for licensure as an adult-use dispensary is exempt from complying with any local governmental regulations that are adopted under this subsection after July 1, 2021, until its first license renewal date occurring after January 1, 2022, or the expiration of any grace period granted by the locality, whichever is later.~~

(3) An election regarding whether to approve any or all of the marijuana business categories listed in subsection (1)(d) to be located within a local jurisdiction may be requested by filing a petition in accordance with 7-5-131 through 7-5-135 and 7-5-137 by:

(a) the qualified electors of a county; or

(b) the qualified electors of a municipality.

(4) (a) An election held pursuant to this section must be called, conducted, counted, and canvassed in accordance with Title 13, chapter 1, part 4.

(b) An election pursuant to this section may be held in conjunction with a regular election of the governing body, general election, or a regular local or special election.

(5) If the qualified electors of a county vote to approve a type of marijuana business to be located in the jurisdiction, the governing body shall enter the approval into the records of the local government and notify the department of the election results.

(6) (a) If an election is held pursuant to this section in a county that contains within its limits a municipality of more than 5,000 persons according to the most recent federal decennial census:

(i) it is not necessary for the registered qualified electors in the municipality to file a separate petition asking for a separate or different vote on the question of whether to prohibit a category of marijuana business from being located in the municipality; and

(ii) the county shall conduct the election in a manner that separates the votes in the municipality from those in the remaining parts of the county.

(b) If a majority of the qualified electors in the county, including the qualified electors in the municipality, vote to approve a category of marijuana business to be located in the county, the county may allow that category of marijuana business to operate in the county.

(c) (i) If a majority of the qualified electors in the municipality vote to approve a category of marijuana business to be located in the municipality, the municipality may allow that type of marijuana business to operate in the municipality.

(ii) If a majority of the qualified electors in the municipality vote to prohibit a category of marijuana business from being located in the municipality, the municipality may not allow that type of marijuana business to operate in the municipality.

(d) Nothing contained in this subsection (6) prevents any municipality from having a separate election under the terms of this section.

(7) (a) A county or municipality that has voted to approve a category of marijuana business to be located in the jurisdiction or a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election may vote to prohibit the previously approved or allowed operations within the jurisdiction.

(b) A vote overturning the approval of a category of marijuana business or prohibiting the previously permitted operation of marijuana businesses is effective on the 90th day after the local election is held.

(8) A local government may not prohibit the transportation of marijuana within or through its jurisdiction on public roads by any person licensed to do so by the department or as otherwise allowed by this chapter.”

Section 7. Effective date. [This act] is effective July 1, 2025.

Approved May 5, 2025

CHAPTER NO. 351

[SB 30]

AN ACT PROVIDING THAT THE RULE OF NECESSITY MAY NOT BE USED WHEN JUDICIAL OFFICERS WITH LESS OF A CONFLICT ARE AVAILABLE; AND AMENDING SECTION 3-1-611, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-1-611, MCA, is amended to read:

“3-1-611. Judicial conflict of interest – recusal – definitions.

(1) Any party to a proceeding may request that the judicial officer assigned to the proceeding be recused if an opposing party or lawyer or a lawyer’s law firm representing an opposing party meets the criteria in subsection (1)(a) or (1)(b):

(a) the judicial officer has received one or more combined contributions totaling the maximum amount allowable under 13-37-216 from a lawyer or party to the proceeding in an election that was held within the previous 6 years; or

(b) a lawyer, the lawyer’s law firm, or party to the proceeding has made one or more contributions directly or indirectly to a political committee or other entity that engaged in independent expenditures that supported the judicial officer or opposed the judicial officer’s opponent in an election that was held within the previous 6 years if the total combined amount of the contributions exceeds \$10,000 for a candidate for a supreme court office or \$5,000 for a candidate for any other judicial office.

(2) The moving party shall provide sufficient facts to demonstrate that the criteria in subsection (1) have been met.

(3) ~~Upon~~ *On* receipt of the motion and the information required by subsection (2), the judicial officer shall recuse.

(4) *A judicial officer may not use the legal doctrine of the rule of necessity to avoid recusal because of a conflict of interest in which other judicial officers with less immediate or less significant conflicts are available to serve as substitutes.*

~~(4)~~(5) For the purposes of this section:

(a) “contribution” has the meaning provided in 13-1-101; and

(b) “judicial officer” has the meaning provided in 1-1-202.”

Approved May 5, 2025

CHAPTER NO. 352

[SB 38]

AN ACT REVISING LAWS TO PROHIBIT ATTORNEY FEE AWARDS AGAINST A GOVERNMENT ENTITY RELATING TO LEGISLATIVE VETO OVERRIDES; PROHIBITING ATTORNEY FEES AGAINST A GOVERNMENT ENTITY WHEN THE RESULT OF A LEGISLATIVE VETO OVERRIDE POLL DOES NOT RESULT IN AN OVERRIDE OF A VETO; AMENDING SECTION 25-10-711, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 25-10-711, MCA, is amended to read:

“25-10-711. Award of costs against governmental government entity when suit or defense is frivolous or pursued in bad faith – award of costs related to legislative veto override poll. (1) In any civil action brought by or against the state, a political subdivision, or an agency of the state or a political subdivision, the opposing party, whether plaintiff or defendant, is entitled to the costs enumerated in 25-10-201 and reasonable attorney fees as determined by the court if:

(a) the opposing party prevails against the state, political subdivision, or agency; and

(b) the court finds that the claim or defense of the state, political subdivision, or agency that brought or defended the action was frivolous or pursued in bad faith.

(2) *In an action in which a party seeks a writ of mandamus to compel a legislative veto override poll and the result of the poll does not override the veto, the opposing party is not considered to have prevailed. This subsection applies to an award of costs against a government entity even if a court finds that the defense was frivolous or pursued in bad faith.*

(2)(3) Costs may be granted pursuant to subsection (1) notwithstanding any other provision of the law to the contrary.”

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to actions relating to a legislative veto override poll commenced on or after [the effective date of this act].

Approved May 5, 2025

CHAPTER NO. 353

[SB 41]

AN ACT REQUIRING A SUBSTITUTED OR DISQUALIFIED DISTRICT COURT JUDGE TO FOLLOW A PROCEDURE THAT PROVIDES FOR THE RANDOM SELECTION OF SUBSEQUENT JUDGES; DEFINING RANDOM SELECTION; REQUIRING THE OFFICE OF THE COURT ADMINISTRATOR TO ESTABLISH THE PROCEDURE; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Calling of subsequent district judges – random selection. (1) When calling in subsequent district judges, a judge who has been substituted, disqualified for cause, or recused shall follow the procedure

for the random selection of subsequent district judges as established by the office of the court administrator.

(2) For the purposes of this section, “random selection” means a selection from a larger group by chance. The random selection of subsequent judges must include a mechanism to ensure that the subsequent district judge’s judicial district is reasonably close geographically to the judicial district of the original judge while still remaining random.

Section 2. Office of court administrator procedure. By October 1, 2025, the office of the court administrator shall establish a procedure for the random selection of subsequent district judges for a district court in which the initial judge has been substituted, disqualified for cause, or recused. The random selection of subsequent judges must include a mechanism to ensure that the subsequent district judge’s judicial district is reasonably close geographically to the judicial district of the original judge while still remaining random. The office shall provide the procedure to all district court judges by October 15, 2025.

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 3, chapter 1, part 8, and the provisions of Title 3, chapter 1, part 8, apply to [section 1].

Section 4. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 1] is effective October 1, 2025.

Approved May 5, 2025

CHAPTER NO. 354

[SB 65]

AN ACT REVISING CHANGE-OF-NAME LAWS; PROVIDING FOR DEPARTMENT OF CORRECTIONS AUTHORITY TO CONTACT VICTIMS WHEN RESPONDING TO CHANGE-OF-NAME PETITIONS; AND AMENDING SECTION 27-31-201, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 27-31-201, MCA, is amended to read:

“27-31-201. Order setting hearing date – notice – safety. (1) When a petition setting out the matters contained in 27-31-101 or 27-31-102 is filed, the court or judge may appoint a time for hearing the petition. Except as provided in subsections (2) and (3), notice of the time and place of hearing the petition must be published for 4 successive weeks in some newspaper published in the county, if a newspaper is printed in the county. If a newspaper is not printed in the county, a copy of the notice must be posted in at least three public places in the county for 4 successive weeks.

(2) Publication is not required for a change of name of a minor under 27-31-101 if both parents and all legal guardians consent in writing.

(3) The court may allow a petition to proceed on a sealed-record basis when probable cause is shown that the safety of the petitioner is at risk and the judge is satisfied that the petitioner is not attempting to avoid debt or to hide a criminal record. The request to proceed on a sealed-record basis must be set forth in the petition. All papers and records pertaining to the sealed-record petition must be kept as a permanent record of the court and withheld from inspection unless the judge denies the request to proceed on a sealed-record basis. Except as provided in subsections (4) and (5), a person, other than the

petitioner, may not have access to the records except for good cause shown and on order of the judge of the court in which the petition was granted.

(4) When a petitioner is committed to or under the supervision of the department of corrections or is incarcerated in a state prison as defined in 53-30-101, the petitioner shall serve the petition on the department. A court shall provide reasonable opportunity for the department to appear and provide a response to the petition. *The department shall make all reasonable efforts to contact a victim as defined in 46-18-243 to obtain information relevant to the department's response to the petition.*

(5) If the court grants a petition filed by a person committed to or under the supervision of the department of corrections or incarcerated in a state prison as defined in 53-30-101, the court shall authorize the department of corrections and the department of justice to maintain and disseminate the petitioner's records in a manner that ensures performance of duties required by offender registration statutes, testing and collection of biological samples, victim notification, or other disclosures or notices required by law."

Approved May 5, 2025

CHAPTER NO. 355

[SB 67]

AN ACT PROVIDING FOR THE USE OF VEHICLES WITH AUTOMATED DRIVING SYSTEMS ON STATE PUBLIC HIGHWAYS; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING DEFINITIONS.

WHEREAS, the intention of this legislation is to get all parties to the table to promote the safest ways to promote autonomous technology incorporating the diverse roadways, weather, and animal-human encounters in Montana and to make Montana the showcase for advancing new technologies in transportation.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 6] may be cited as the "Montana Automated Driving Systems Act."

Section 2. Purpose. The purpose of [sections 1 through 6] is to allow the use of a vehicle with an automated driving system on the public highways of this state in a way that:

- (1) is safe for the traveling public;
- (2) creates long-term predictability for individuals and businesses;
- (3) recognizes that this state may have more challenging and variable driving conditions than other states; and
- (4) integrates as closely as possible with existing state law related to motor vehicles.

Section 3. Definitions. As used in [sections 1 through 6], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Automated driving system" means the hardware and software that are collectively capable of performing the entire dynamic driving task on a sustained basis, regardless of whether the automated driving system is limited to a specific operational design domain.

(2) "Department" means the department of transportation.

(3) (a) "Dynamic driving task" means all of the real-time operational and tactical functions required to operate a motor vehicle in highway traffic, including:

- (i) lateral vehicle motion control through steering;

(ii) longitudinal vehicle motion control through acceleration and deceleration;

(iii) monitoring the driving environment through object and event detection, recognition, classification, and response preparation;

(iv) object and event response execution;

(v) maneuver planning; and

(vi) enhancement of the conspicuousness of the vehicle with lights, signals, and gestures.

(b) The term does not include strategic functions such as trip scheduling and the selection of destinations and waypoints.

(4) “Fallback ready user” means the user of a vehicle equipped with an engaged level 3 automated driving system who is a human driver and who is responsible to operate the vehicle if the automated driving system issues a request for the user of the vehicle to intervene or a system failure occurs.

(5) “Level 1 automated driving system” means an automated driving system that provides a driver with one of the following:

(a) braking and accelerating support; or

(b) steering support.

(6) “Level 2 automated driving system” means an automated driving system that provides a driver with both of the following:

(a) braking and accelerating support; and

(b) steering support.

(7) “Level 3 automated driving system” means an automated driving system that:

(a) has the capability to perform on a sustained basis the entire dynamic driving task within its operational design domain; and

(b) requires a fallback ready user to operate the vehicle after the automated driving system issues a request for the fallback ready user to intervene or a system failure occurs.

(8) “Level 4 automated driving system” means an automated driving system feature that, without any expectation a human driver will respond to a request to intervene, has the capability to perform:

(a) on a sustained basis the entire dynamic driving task within its operational design domain; and

(b) any maneuvers necessary to achieve a minimal risk condition in response to:

(i) an exit from the operational design domain of the automated driving system; or

(ii) a system failure.

(9) “Level 5 automated driving system” means an automated driving system feature that, without any expectation a human driver will respond to a request to intervene, has the capability to perform:

(a) on a sustained basis the entire dynamic driving task under all conditions that can reasonably be managed by a human driver; and

(b) any maneuvers necessary to respond to a system failure.

(10) “Operational design domain” means the operating conditions under which an automated driving system or a feature of an automated driving system is specifically designed to function, including:

(a) speed-range, environmental, geographical, and time-of-day restrictions; or

(b) the requisite presence or absence of certain traffic or roadway conditions.

(11) “Public highways of this state” has the same meaning as provided in 60-1-201.

Section 4. Use of automated driving systems. (1) A vehicle with automated driving systems level 1, level 2, and level 3 may be used on the public highways of this state.

(2) A vehicle with automated driving systems level 4 and level 5 may be used on the public highways of this state subject to limitations established by department rulemaking as provided in [sections 5 and 6].

(3) [Sections 1 through 6] do not prevent a city, town, or consolidated city-county government from regulating traffic on streets within their jurisdictional boundaries pursuant to 61-12-101 or improving its transportation network, providing that these regulations or improvements do not discriminate against a vehicle with an automated driving system.

Section 5. Department of transportation rulemaking authority.

(1) The department of transportation may adopt rules that limit the use of commercial vehicles with automated driving systems in actual or predicted periods of dangerous road conditions.

(2) The department of transportation may exempt from limitation commercial vehicles with an automated driving system that are demonstrated to be capable of operating safely during dangerous road conditions.

(3) In conjunction with the department of transportation, the department of justice shall consult interested stakeholders prior to proposing rules on vehicles with an automated driving system, such as members of the transportation interim committee and representatives of law enforcement agencies, motor vehicle and insurance industries, drivers, pedestrians, and tribal and local governments.

Section 6. Department of justice rulemaking authority.

(1) The department of justice may adopt rules for the use of a vehicle with an automated driving system.

(2) In conjunction with the department of transportation, the department of justice shall consult interested stakeholders prior to proposing rules on vehicles with an automated driving system, such as members of the transportation interim committee and representatives of law enforcement agencies, motor vehicle and insurance industries, drivers, pedestrians, and tribal and local governments.

Section 7. Codification instruction. [Sections 1 through 6] are intended to be codified as an integral part of Title 61, and the provisions of Title 61 apply to [sections 1 through 6].

Approved May 5, 2025

CHAPTER NO. 356

[SB 70]

AN ACT GENERALLY REVISING LAWS RELATED TO CONDITIONS OF PROBATION; ALLOWING FOR A PROBATION AND PAROLE OFFICER TO REMOVE A CONDITION OF SUPERVISION WITHOUT OBJECTION; REQUIRING VICTIM NOTIFICATION; AND AMENDING SECTIONS 46-18-203 AND 46-23-1011, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-18-203, MCA, is amended to read:

“46-18-203. Revocation of suspended or deferred sentence. (1) Upon the filing of a petition for revocation showing probable cause that the offender has violated any condition of a sentence, any condition of a deferred imposition of sentence, or any condition of supervision after release from imprisonment

imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-625(4), or 45-5-711, the judge may issue an order for a hearing on revocation. The order must require the offender to appear at a specified time and place for the hearing and be served by delivering a copy of the petition and order to the offender personally. The judge may also issue an arrest warrant directing any peace officer or a probation and parole officer to arrest the offender and bring the offender before the court.

(2) The petition for a revocation must be filed with the sentencing court either before the period of suspension or deferral has begun or during the period of suspension or deferral but not after the period has expired. Expiration of the period of suspension or deferral after the petition is filed does not deprive the court of its jurisdiction to rule on the petition.

(3) The provisions pertaining to bail, as set forth in Title 46, chapter 9, are applicable to persons arrested pursuant to this section.

(4) Without unnecessary delay and no more than 60 days after arrest, the offender must be brought before the judge, and at least 10 days prior to the hearing the offender must be advised of:

(a) the allegations of the petition;

(b) the opportunity to appear and to present evidence in the offender's own behalf;

(c) the opportunity to question adverse witnesses; and

(d) the right to be represented by counsel at the revocation hearing pursuant to Title 46, chapter 8, part 1.

(5) A hearing is required before a suspended or deferred sentence can be revoked or the terms or conditions of the sentence can be modified unless:

(a) the offender admits the allegations and waives the right to a hearing; or

(b) the sentencing court, the probationer, or the county attorney in the sentencing jurisdiction has not objected to the removal of a condition of supervision pursuant to 46-23-1011 and the department of corrections notifies the victim of the change, using any available contact information at the time the other parties are notified; or

~~(b)~~(c) the relief to be granted is favorable to the offender and the prosecutor, after having been given notice of the proposed relief and a reasonable opportunity to object, has not objected. An extension of the term of probation is not favorable to the offender for the purposes of this subsection ~~(5)(b)~~ (5)(c).

(6) (a) At the hearing, the prosecution shall prove, by a preponderance of the evidence, that there has been a violation of:

(i) the terms and conditions of the suspended or deferred sentence; or

(ii) a condition of supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-625(4), or 45-5-711.

(b) However, when a failure to pay restitution is the basis for the petition, the offender may excuse the violation by showing sufficient evidence that the failure to pay restitution was not attributable to a failure on the offender's part to make a good faith effort to obtain sufficient means to make the restitution payments as ordered.

(7) (a) If the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence by committing either a compliance ~~violations~~ violation or a noncompliance ~~violations~~ violation, or both, the judge may:

(i) continue the suspended or deferred sentence without a change in conditions;

(ii) continue the suspended sentence with modified or additional terms and conditions, which may include placement in:

(A) a secure facility designated by the department for up to 9 months; or

(B) a community corrections facility or program designated by the department for up to 9 months, including but not limited to placement in a prerelease center, sanction or hold bed, transitional living program, enhanced supervision program, relapse intervention bed, chemical dependency treatment, or 24/7 sobriety program;

(iii) revoke the suspension of sentence and require the offender to serve either the sentence imposed or any sentence that could have been imposed that does not include a longer imprisonment or commitment term than the original sentence; or

(iv) if the sentence was deferred, impose any sentence that might have been originally imposed.

(b) If a suspended or deferred sentence is revoked, the judge shall consider any elapsed time, consult the records and recollection of the probation and parole officer, and allow all of the elapsed time served without any record or recollection of violations as a credit against the sentence. If the judge determines that elapsed time should not be credited, the judge shall state the reasons for the determination in the order. Credit must be allowed for time served in a detention center or for home arrest time already served.

(c) If the judge finds that the offender has not violated a term or condition of a suspended or deferred sentence, the judge is not prevented from setting, modifying, or adding conditions of probation as provided in 46-23-1011.

(8) If the judge finds that the prosecution has not proved, by a preponderance of the evidence, that there has been a violation of the terms and conditions of the suspended or deferred sentence, the petition must be dismissed and the offender, if in custody, must be immediately released.

(9) All sanction and placement decisions must be documented in the offender's file.

(10) As used in this section:

(a) "absconding" means when an offender deliberately makes the offender's whereabouts unknown to a probation and parole officer or fails to report for the purposes of avoiding supervision, and reasonable efforts by the probation and parole officer to locate the offender have been unsuccessful; and

(b) "compliance violation" means a violation of the conditions of supervision that is not:

(i) a new criminal offense;

(ii) possession of a firearm in violation of a condition of probation;

(iii) behavior by the offender or any person acting at the offender's direction that could be considered stalking, harassing, or threatening the victim of the offense or a member of the victim's immediate family or support network;

(iv) absconding; or

(v) failure to enroll in or complete a required sex offender treatment program or a treatment program designed to treat violent offenders.

(11) The provisions of this section apply to any offender whose suspended or deferred sentence is subject to revocation regardless of the date of the offender's conviction and regardless of the terms and conditions of the offender's original sentence."

Section 2. Section 46-23-1011, MCA, is amended to read:

"46-23-1011. Supervision on probation – removal of condition of supervision. (1) The department shall supervise probationers during their probation period, including supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-625(4), or 45-5-711, in accord with the conditions set by a sentencing judge. If the sentencing judge did not set conditions of probation at the time of sentencing, the court shall, at the request of the department, hold a hearing and set

conditions of probation. The probationer must be present at the hearing. The probationer has the right to counsel as provided in chapter 8 of this title.

(2) If the probationer is being supervised for a sexual offense as defined in 46-23-502, the conditions of probation may require the probationer to refrain from direct or indirect contact with the victim of the offense or an immediate family member of the victim. If the victim or an immediate family member of the victim requests to the department that the probationer not contact the victim or immediate family member, the department shall request a hearing with a sentencing judge and recommend that the judge add the condition of probation. If the victim is a minor, a parent or guardian of the victim may make the request on the victim's behalf.

(3) A copy of the conditions of probation must be signed by the probationer. The department may require a probationer to waive extradition for the probationer's return to Montana.

(4) The probation and parole officer shall regularly advise and consult with the probationer using effective communication strategies and other evidence-based practices to encourage the probationer to improve the probationer's condition and conduct and shall inform the probationer of the restoration of rights on successful completion of the sentence.

(5) (a) The probation and parole officer may recommend and a judge may modify or add any condition of probation or suspension of sentence at any time.

(b) The probation and parole officer shall provide the county attorney in the sentencing jurisdiction with a report that identifies the conditions of probation and the reason why the officer believes that the judge should modify or add the conditions.

(c) The county attorney may file a petition requesting that the court modify or add conditions as requested by the probation and parole officer.

(d) The court may grant the petition if the probationer does not object. If the probationer objects to the petition, the court shall hold a hearing pursuant to the provisions of 46-18-203.

(6) (a) *The probation and parole officer may submit the intent to remove a condition of supervision by notifying the sentencing court, the probationer, and the county attorney in the sentencing jurisdiction in writing of the condition of supervision to be removed. If no objection pursuant to subsection (6)(b) occurs, the condition is removed.*

(b) *If the sentencing court, the probationer, or the county attorney in the sentencing jurisdiction objects within 14 days to the probation and parole officer's notification of intent to remove a condition of supervision, the court shall hold a hearing as provided in 46-18-203.*

(c) *To reinstate a condition of supervision that was removed pursuant to subsection (6)(a), the probation and parole officer shall notify the sentencing court, the probationer, and the county attorney in the sentencing jurisdiction in writing.*

(d) *If a condition of supervision removed or reinstated under this subsection (6) affects restitution and interest to the victim, as provided in 46-18-241 through 46-18-249, or if the removed or reinstated condition affects direct or indirect contact with the victim, as provided in 46-24-203, or both, the county attorney in the sentencing jurisdiction shall make reasonable efforts to notify the victim by providing a copy of the notice described in subsection (6)(a).*

(e)(7) Except as they apply to supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-625(4), or 45-5-711, the provisions of 46-18-203(7)(a)(ii) do not apply to this section.

~~(f)~~(8) The probationer shall sign a copy of new, *removed, reinstated*, or modified conditions of probation. The court may waive or modify a condition of restitution only as provided in 46-18-246.

~~(6)~~(9) Based on the risk and needs of each individual as determined by the individual's most recent risk and needs assessment, the probation and parole officer shall notify the probationer of eligibility for conditional discharge from supervision when a probationer is in compliance with the conditions of supervision when:

(a) under the women's risks and needs assessment:

- (i) a low-risk probationer has served 9 months;
- (ii) a moderate-risk probationer has served 12 months;
- (iii) a medium-risk probationer has served 18 months; and
- (iv) a high-risk probationer has served 24 months; and

(b) under the Montana offender reentry and risk assessment:

- (i) a low-risk probationer has served 9 months;
- (ii) a moderate-risk probationer has served 12 months;
- (iii) a high-risk probationer has served 18 months; and
- (iv) a very high-risk probationer has served 24 months.

~~(7)~~(10) The probationer, the probationer's attorney, or the prosecutor may file a motion recommending conditional discharge. The motion must set forth the following:

- (a) why the probationer meets the requirements of subsection ~~(6)~~ (9); and
- (b) whether the department of corrections supports or opposes the motion.

~~(8)~~(11) The motion must be served on the county attorney serving in the county of the presiding district court. The movant does not need to file an accompanying brief as otherwise required by Rule 2 of the Montana Uniform District Court Rules.

~~(9)~~(12) The department of corrections shall make reasonable efforts to notify the victim if required by 46-24-212, and the county attorney shall make reasonable efforts to notify the victim. The victim must be provided the following:

(a) a copy of the motion;

(b) written notice that:

(i) the victim may provide written input regarding the motion or may ask the county attorney to state the victim's position on the motion;

(ii) if a hearing is set, the date, time, and place of the hearing; and

(iii) the victim may appear and testify at any hearing held on the motion.

~~(10)~~(13) (a) The court may hold a hearing on the motion. A judge may conditionally discharge a probationer from supervision before expiration of the probationer's sentence if:

(i) the judge determines that a conditional discharge from supervision:

(A) is in the best interests of the probationer and society; and

(B) will not present unreasonable risk of danger to the victim of the offense; and

(ii) the offender has paid all restitution and court-ordered financial obligations in full.

(b) Subsection ~~(10)~~(a) (13)(a) does not prohibit a judge from revoking the order suspending execution or deferring imposition of sentence, as provided in 46-18-203, for a probationer who has been conditionally discharged from supervision."

Approved May 5, 2025

CHAPTER NO. 357

[SB 97]

AN ACT REVISING VENUE LAWS FOR CASES IN WHICH PARTIES CHALLENGE RECENTLY ENACTED LAW; PROVIDING THAT VENUE IS PROPER IN A COUNTY WHOLLY OR PARTIALLY WITHIN THE LEGISLATIVE DISTRICT OF THE PRIMARY SPONSOR OF THE CHALLENGED LAW; REQUIRING CHANGE OF VENUE TO A COUNTY WHOLLY OR PARTIALLY WITHIN THE LEGISLATIVE DISTRICT OF THE PRIMARY SPONSOR OF THE CHALLENGED LAW WHEN A PARTY PLEADS THAT A RECENTLY ENACTED LAW IS UNCONSTITUTIONAL; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 25-2-118, 25-2-125, 25-2-126, AND 25-2-201, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Challenge to recently enacted law. (1) The proper place of trial for an action that challenges a statute or session law enacted or amended within the legislative biennium is in a county that is wholly or partially within the legislative district of the primary sponsor of the bill that enacted or amended the statute or session law.

(2) As used in this section, the following definitions apply:

(a) “Challenge” means:

(i) to plead that a statute or session law is unconstitutional under a provision of the state or federal constitution; or

(ii) to seek an injunction against the execution of a statute.

(b) “Legislative biennium” means a 2-year period beginning on the first Monday of January of an odd-numbered year and ending the day before the first Monday of January of the next odd-numbered year.

Section 2. Section 25-2-118, MCA, is amended to read:

“**25-2-118. Residence of defendant.** (1) Except as provided in *[section 1]* and subsection (3) of this section, the proper place of trial for all civil actions is the county in which the defendants or any of them reside at the commencement of the action.

(2) If none of the defendants reside in the state, the proper place of trial for a contract action is as provided in 25-2-121(1)(b) or (2) and the proper place of trial for a tort action is as provided in 25-2-122(2) or (3).

(3) The proper place of trial for an action brought pursuant to Title 40, chapter 4, is the county in which the petitioner or the respondent has resided during the 90 days preceding the filing of the action.”

Section 3. Section 25-2-125, MCA, is amended to read:

“**25-2-125. Against public officers or their agents.** *The Except as provided in [section 1],* the proper place of trial for an action against a public officer or person specially appointed to execute the officer’s duties for an act done by the officer or person in virtue of the office or against a person who, by the officer’s or person’s command or in the officer’s or person’s aid, does anything relating to the duties of the officer is the county where the cause or some part of the cause of action arose.”

Section 4. Section 25-2-126, MCA, is amended to read:

“**25-2-126. Against state and political subdivisions.** (1) Except as provided in *[section 1]* and subsection (2) of this section, the proper place of trial for an action against the state is in the county in which the claim arose or in Lewis and Clark County. In an action against the state brought by a

resident of the state, the county of the plaintiff's residence is also a proper place of trial.

(2) For an action that challenges the issuance, approval, renewal, or denial of a permit, license, authorization, or certificate by a state agency, the action must be brought in the county in which the permitted, licensed, authorized, or certificated activity would occur. If an activity would occur in more than one county, any county in which the activity would occur is a proper place for an action.

(3) The proper place of trial for an action against a political subdivision is in the county in which the claim arose or in any county where the political subdivision is located."

Section 5. Section 25-2-201, MCA, is amended to read:

"25-2-201. When change of venue required. The court or judge ~~must~~ *shall*, on motion, change the place of trial in the following cases:

(1) when the county designated in the complaint is not the proper county;

(2) when there is reason to believe that an impartial trial cannot be had ~~therein in the current place of trial~~;

(3) when the convenience of witnesses and the ends of justice would be promoted by the change;

(4) *when a party enters a pleading that challenges, as defined in [section 1], a statute or session law if the statute or session law was enacted or amended within the legislative biennium, as defined in [section 1]; and*

(5) *when a primary bill sponsor intervenes pursuant to 5-2-107 in a declaratory judgment action."*

Section 6. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 25, chapter 2, part 1, and the provisions of Title 25, chapter 2, part 1, apply to [section 1].

Section 7. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Approved May 5, 2025

CHAPTER NO. 358

[SB 107]

AN ACT GENERALLY REVISING EDUCATION LAWS; ESTABLISHING A LEGISLATIVE GOAL FOR PUBLIC ELEMENTARY AND SECONDARY SCHOOLS TO SUPPORT INSTRUCTION OF PREVENTION AND AVOIDANCE OF CHILD SEX TRAFFICKING AND HUMAN TRAFFICKING; REQUIRING THE OFFICE OF PUBLIC INSTRUCTION TO UNDERTAKE ACTIVITIES TO EDUCATE MONTANANS ABOUT AND PREVENT CHILD SEX TRAFFICKING AND HUMAN TRAFFICKING; AMENDING SECTIONS 20-1-102 AND 20-7-1316, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-1-102, MCA, is amended to read:

"20-1-102. Legislative goals for public elementary and secondary schools. It is the goal of the legislature that Montana's public elementary and secondary school system, in cooperation with parents or guardians, create a learning environment for each student that:

(1) develops a sound foundation for literacy and numeracy during the early years that is built upon and reinforced throughout the educational experience;

(2) furthers the ability to reason critically, creatively, and strategically;

(3) fosters the ability to effectively understand and communicate ideas, knowledge, and thoughts;

(4) develops a sense of personal and civic responsibility;

(5) provides an in-depth understanding of the American political, social, and economic systems and the historical context from which they arose;

(6) provides familiarization with political, social, and economic systems found elsewhere in the world;

(7) develops a strong work ethic, postsecondary readiness, and employment skills;

(8) encourages a healthy lifestyle; and

(9) supports instruction of financial literacy, where students obtain the knowledge and skills required to succeed financially; and

(10) *supports instruction of avoidance of participation or involvement in and prevention of child sex trafficking and human trafficking.*”

Section 2. Section 20-7-1316, MCA, is amended to read:

“20-7-1316. Child sex trafficking and human trafficking prevention. The office of public instruction ~~is encouraged to~~ *shall* undertake activities to educate Montanans about and prevent child sex trafficking *and human trafficking*. Activities may include but are not limited to:

(1) reviewing best practices for preventing child sex trafficking *and human trafficking*;

(2) providing access to educational resources for interested parents, teachers, child-care providers, and other community members on how to prevent child sex trafficking *and human trafficking*, on the warning signs of child sex trafficking *and human trafficking*, and on predatory behaviors;

(3) coordinating educational and prevention efforts with law enforcement, the department of public health and human services, and local organizations that work to prevent child sex trafficking *and human trafficking*; and

(4) supporting school districts in developing:

(a) policies on child sex trafficking *and human trafficking* awareness, prevention, response, and reporting; and

(b) educational materials and curricula aimed at preventing child sex trafficking *and human trafficking*.”

Section 3. Effective date. [This act] is effective July 1, 2025.

Approved May 5, 2025

CHAPTER NO. 359

[SB 148]

AN ACT ALLOWING CERTAIN LANDOWNERS TO DESIGNATE LICENSES TO PERSONS WITH DEVELOPMENTAL OR PHYSICAL DISABILITIES; PROVIDING DEFINITIONS; AMENDING SECTIONS 87-1-266, 87-2-513, 87-2-516, 87-2-705, 87-2-714, AND 87-2-735, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-1-266, MCA, is amended to read:

“87-1-266. License benefits for landowners enrolled in block management program – rulemaking. (1) As a benefit for enrolling property in the block management program established in 87-1-265, a resident landowner may receive one conservation license and one Class AAA combination sports license and the necessary prerequisites, without charge, if the landowner is the owner of record. The licenses may be used for the full hunting or fishing season

in any district where they are valid. The licenses may not be transferred by gift or sale.

(2) As a benefit for enrolling property in the block management program, a nonresident landowner may receive one conservation license and one Class B-10 nonresident big game combination license and the necessary prerequisites, without charge, if the landowner is the owner of record. The licenses may be used for the full hunting or fishing season in any district where they are valid. The licenses may not be transferred by gift or sale. The grant of a license under this subsection also qualifies the licensee to apply for a permit through the normal drawing process. The grant of a license under this subsection does not affect the limits established under 87-2-505.

(3) (a) Instead of receiving the benefits provided in subsection (1) or (2), a landowner of record who enrolls in the block management program may designate an immediate family member, *or an employee, or a person with a developmental disability or a physical disability as determined by the department* to receive, without charge, a conservation license and the necessary prerequisites and:

(i) a Class AAA combination sports license if the designated person is a resident; or

(ii) a Class B-10 nonresident big game combination license if the designated person is a nonresident.

(b) ~~For the purposes of this subsection (3), an immediate family member means a parent, grandparent, child, or grandchild of the cooperator by blood or marriage, a spouse, a legally adopted child, a sibling of the cooperator or spouse, or a niece or nephew. the following definitions apply:~~

~~(i) "Developmental disability" means a developmental disability as defined in 53-20-102.~~

~~(ii) "Employee" means a person who works full-time and year-round for the landowner as part of the active farm or ranch operation enrolled in the block management program.~~

~~(iii) "Immediate family member" means a parent, grandparent, child, or grandchild of the cooperator by blood or marriage, a spouse, a legally adopted child, a sibling of the cooperator or spouse, or a niece or nephew.~~

~~(iv) "Physical disability" means a person experiencing a condition medically determined to be permanent and substantial and resulting in significant impairment of the person's functional ability.~~

~~(c) For purposes of this subsection (3), the term "employee" means a person who works full time and year-round for the landowner as part of the active farm or ranch operation enrolled in the block management program.~~

~~(d)(c) An immediate family member or employee A person who is designated to receive a license pursuant to this subsection (3) must be eligible for licensure under current Montana law and may not transfer the license by gift or sale.~~

~~(e)(d) The grant of a Class B-10 nonresident big game combination license to an immediate family member, or an employee, or a person with a developmental disability or a physical disability as determined by the department pursuant to this subsection (3) does not affect the limits established in 87-2-505.~~

(4) The department may by rule limit the overall number of licenses that can be provided to landowners pursuant to this section.

(5) For the purposes of this section, the term "necessary prerequisites" includes:

(a) the base hunting license established in 87-2-116;

(b) the aquatic invasive species prevention pass established in 87-2-130; and

(c) the conservation license established in 87-2-201."

Section 2. Section 87-2-513, MCA, is amended to read:

“87-2-513. Either-sex or antlerless elk license or permit for landowner who offers free public elk hunting – terms, conditions, and issuance. (1) (a) The department may issue, at no cost to a landowner who provides free public elk hunting on the landowner’s property and pursuant to this section, an either-sex or antlerless elk license, permit, or combination of the two as required in that hunting district for the landowner or the landowner’s designee to hunt on the landowner’s property or on private property leased by the landowner for agricultural purposes.

(b) A designee *must be eligible for licensure under Title 87, chapter 2, and may be an immediate family member, or an authorized full-time employee of the landowner, or a person with a developmental disability or a physical disability as determined by the department.* ~~who is eligible for licensure under Title 87, chapter 2.~~

(2) To be eligible for a license or permit pursuant to this section, a landowner:

(a) must own at least 640 acres of occupied elk habitat, except that smaller acreages are eligible if the department determines that site conditions exist to accommodate successful public hunting;

(b) must have entered into a contractual public elk hunting access agreement with the department in accordance with subsection (7) that allows public access for free public elk hunting on the landowner’s property throughout the regular hunting season; and

(c) may not charge a fee or authorize a person to charge a fee for hunting access on the landowner’s property.

(3) (a) For every three members of the public allowed to hunt under the contractual public elk hunting access agreement, the department may issue one license, permit, or combination of the two pursuant to subsection (1). The department may limit the total number of licenses and permits issued under this section.

(b) At least one of the public hunters must hold the equivalent license, permit, or combination of the two that is issued to the landowner or the landowner’s designee. The department, in consultation with the landowner, shall select the hunters pursuant to subsection (7)(b).

(4) A license or permit issued pursuant to this section:

(a) is nontransferable and may not be sold or bartered; and

(b) may only be used for hunting conducted on property that is opened to public access pursuant to this section.

(5) The department may prioritize distribution of licenses or permits under subsection (1) according to the areas the department determines are most in need of management.

(6) If the department determines that a landowner or landowner’s designee has not abided by the restrictions and conditions of a license or permit issued pursuant to this section, that landowner or landowner’s designee is not eligible to receive another license or permit pursuant to this section during any subsequent license year.

(7) (a) A contractual public elk hunting access agreement must define the areas that will be open to public elk hunting, the number of public elk hunting days that will be allowed on the property, and other factors that the department and the landowner consider necessary for the proper management of elk on the landowner’s property. The agreement must include a process or methodology the landowner may use to select up to one-third of the public hunters required by subsection (3) and must reserve the right of the landowner to deny access to the landowner’s property by a public hunter selected pursuant to subsection (7)(b) for cause, including but not limited to intoxication, violation of landowner

conditions for use of the property, or previous misconduct on a landowner's property.

(b) Except for public hunters selected by the landowner pursuant to subsection (7)(a), the department shall select public hunters eligible to hunt on the landowner's property through a random drawing of holders of existing licenses or permits in that hunting district.

(8) (a) Licenses, permits, or combinations of the two issued under this section must be for wildlife management purposes and approved by the commission pursuant to its powers under 87-1-301.

(b) The commission shall prioritize approval of an application for a license, permit, or combination of the two based on the willingness of the landowner to allow, in either the regular hunting season or a shoulder hunting season, additional cow harvest by public hunters in addition to the number of public hunters required in subsection (3).

(9) For the purposes of this section, the following definitions apply:

(a) *"Developmental disability" means a developmental disability as defined in 53-20-102.*

(a)(b) "Employee" means a person who works ~~full-time~~ *full-time* for the landowner as part of an active farm or ranch operation enrolled in the program.

(b)(c) "Immediate family member" means a spouse, parent, grandparent, child, grandchild, sibling, niece, or nephew by blood, marriage, or legal adoption.

(d) *"Physical disability" means a person experiencing a condition medically determined to be permanent and substantial and resulting in significant impairment of the person's functional ability."*

Section 3. Section 87-2-516, MCA, is amended to read:

"87-2-516. Drawing for Class A-9 and Class B-12 antlerless elk B tag licenses – landowner preference. (1) In the event the number of valid applications for Class A-9 resident antlerless elk B tag licenses or Class B-12 nonresident antlerless elk B tag licenses for a hunting district exceeds the quota set by the department for the district, the department shall award the permits by a drawing.

(2) Subject to the limitations of subsection (4), in a hunting district where Class A-9 and Class B-12 licenses are issued, a corresponding Class A-9 or B-12 license must be issued, on application, to persons who:

(a) own or have contracted to purchase 640 acres or more of contiguous land, at least some of which is used by elk; or

(b) own 160 acres or more of contiguous production agricultural land on which the department documented elk game damage within the last 2 years.

(3) A landowner who is eligible to receive a Class A-9 or Class B-12 license under subsection (2) may designate an immediate family member ~~or~~, *a person employed by the landowner, or a person with a developmental disability or a physical disability as determined by the department* to apply for the license. A corporation owning qualifying land under subsection (2) may designate one of its shareholders to apply for the Class A-9 or Class B-12 license.

(4) Subject to the management provisions provided in 87-1-321 through 87-1-325, 15% of the Class A-9 and Class B-12 licenses available each year in a hunting district must be available to landowners pursuant to subsection (2)."

Section 4. Section 87-2-705, MCA, is amended to read:

"87-2-705. Drawing for special elk permits. (1) In the event the number of valid applications for special elk permits for a hunting district exceeds the quota set by the department for the district, these permits shall be awarded by a drawing. The department shall provide for those persons making

valid application for special elk permits a method of selecting first, second, and third choice hunting districts for any drawing held pursuant to this section.

(2) Subject to the limitation of subsection (4), a person who owns or is contracting to purchase 640 acres or more of contiguous land, at least some of which is used by elk, in a hunting district where elk permits are awarded under this section shall be issued, upon application, a permit to hunt elk in the hunting district under the terms and conditions of the permit.

(3) An applicant who receives a permit under subsection (2) may designate that the permit be issued to an immediate family member, ~~or a person employed by the landowner, or a person with a developmental disability or a physical disability as determined by the department.~~ A corporation owning qualifying land under subsection (2) may designate one of its shareholders to receive the permit.

(4) Fifteen percent of the special elk permits available each year under this section in a hunting district must be available to landowners under subsection (2).

(5) The department may promulgate the rules necessary to implement this section.”

Section 5. Section 87-2-714, MCA, is amended to read:

“87-2-714. Landowner preference for Class B-10 nonresident big game combination license. (1) Subject to the provisions of subsection (6), 15% of licenses issued under 87-2-505 may be placed in a landowner preference pool for nonresident landowners to hunt only on property the landowner owns in fee title or on other private property the landowner leases to produce a crop as defined in 80-8-102.

(2) A nonresident landowner of record may designate an immediate family member, *an employee, or a person with a developmental disability or a physical disability as determined by the department* to receive the license issued under this section. ~~For purposes of this section, an immediate family member means a spouse, parent, grandparent, child, grandchild, sibling, niece, or nephew of the landowner by blood, marriage, or legal adoption.~~

(3) (a) To qualify to receive a Class B-10 license pursuant to this section, the landowner must own at least 2,500 contiguous acres in fee title. Subject to the provisions of subsections (3)(b) and (5), for each additional 2,500 contiguous acres owned by the landowner, the department may issue to the landowner or the landowner’s ~~immediate family members~~ *designee* an additional Class B-10 license up to a maximum of five Class B-10 licenses per qualifying landowner.

(b) An individual may not hold more than one Class B-10 license.

(4) Applicants must pay the full Class B-10 license fee established in 87-2-505.

(5) If there is a sufficient number of licenses set forth in subsection (1) and multiple applications made per qualifying landowner, the department shall issue one license to each qualifying landowner or the landowner’s ~~immediate family member~~ *designee* before it issues a second or subsequent license to any landowner or the landowner’s ~~immediate family member~~ *designee*. All Class B-10 licenses not issued pursuant to this section shall be returned to the general draw pool available to all applicants pursuant to 87-2-505.

(6) The commission may, by rule, limit the overall number of licenses that can be provided to landowners or their ~~immediate family members~~ *designees* pursuant to this section to less than 15% of those available pursuant to 87-2-505.

(7) A landowner who receives a license pursuant to this section and who was enrolled in a department-administered private land hunting access program in the previous license year may purchase an additional bonus point for an elk or deer license or permit drawing for the fee established in 87-2-113.

(8) *For the purposes of this section, the following definitions apply:*

(a) *“Developmental disability” means a developmental disability as defined in 53-20-102.*

(b) *“Employee” means a person who works full-time and year-round for the landowner as part of the active farm or ranch operation enrolled in the block management program.*

(c) *“Immediate family member” means a spouse, parent, grandparent, child, grandchild, sibling, niece, or nephew of the landowner by blood, marriage, or legal adoption.*

(d) *“Physical disability” means a person experiencing a condition medically determined to be permanent and substantial and resulting in significant impairment of the person’s functional ability.”*

Section 6. Section 87-2-735, MCA, is amended to read:

“87-2-735. Landowner preference licenses and permits for deer and antelope. (1) Subject to the provisions of subsection (2) and the limitation in subsection (3), a person who owns 160 acres or more of real property that is primarily used for agricultural purposes in a hunting district in which a limited number of deer or antelope licenses or permits are awarded must be issued, on application, a license or permit to hunt deer or antelope in the hunting district under the terms and conditions of the license or permit.

(2) When the real property is held jointly or in common by several persons, only one of the joint or common owners is entitled to the preference provided in this section, or the owners may designate their preference to a person who is an immediate family member, *a person or who is employed by the owner or owners as a land manager or in a similar capacity, or to a person with a developmental disability or a physical disability as determined by the department.* Preference may not be awarded to a landowner if the hunting area is totally within the prescribed boundaries of public land.

(3) Fifteen percent of limited licenses or permits available each year in a hunting district for deer or antelope must be available to landowners under this section. If the number of persons applying pursuant to this section exceeds 15% of licenses and permits available for that hunting district, the department shall award the licenses and permits by drawing. The department shall provide a method of selecting first, second, and third choice hunting districts if a drawing is required.”

Section 7. Effective date. [This act] is effective March 1, 2026.

Approved May 5, 2025

CHAPTER NO. 360

[SB 149]

AN ACT REVISING LAWS RELATED TO THE DOCUMENTATION OF EMOTIONAL SUPPORT ANIMALS; PROVIDING SUPPLEMENTAL INFORMATION REQUIREMENTS; REVISING DEFINITIONS; AND AMENDING SECTIONS 70-24-114 AND 70-33-110, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 70-24-114, MCA, is amended to read:

“70-24-114. Emotional support animals – documentation. (1) A tenant with a disability or a disability-related need for an emotional support animal may request and be approved by a landlord to keep an emotional support animal as a reasonable accommodation in housing.

(2) Unless otherwise prohibited by federal law, rule, or regulation, a landlord may:

(a) deny a reasonable accommodation request for an emotional support animal if the animal poses a direct threat to the safety or health of others or poses a direct threat of physical damage to the property that cannot be reduced or eliminated by another reasonable accommodation;

(b) if a tenant's disability-related need for an emotional support animal is not readily apparent, request supporting information that reasonably supports the tenant's need for the particular emotional support animal being requested. Supporting information ~~may~~ *must* include:

(i) information from a health care practitioner who has personal knowledge of the tenant's disability and is acting within the scope of the practitioner's practice that identifies the particular assistance or therapeutic emotional support provided by the specific animal. Information submitted under this subsection (2)(b)(i) must include the effective date, license number, and type of professional license held by the health care practitioner; ~~and or~~

(ii) information from any other source that the landlord determines to be reliable in accordance with the federal Fair Housing Act and Title 49, chapter 2; and

(c) require proof of compliance with state and local licensure and vaccination requirements for each emotional support animal.

(3) If a tenant requests to keep more than one emotional support animal, information for each emotional support animal must be provided pursuant to subsection (2).

(4) A landlord:

(a) may not request information under this section that discloses a diagnosis or severity of a tenant's disability or any medical records relating to the disability, but a tenant may voluntarily disclose such information or medical records to the landlord at the tenant's discretion; and

(b) shall issue a written determination after receiving supplemental information required in subsection (2) and notice the determination pursuant to 70-24-108.

(5) An emotional support animal registration of any kind, including but not limited to an identification card, patch, certificate, or similar registration obtained electronically or in person, is not, by itself, sufficient information to reliably establish that a tenant has a disability-related need for an emotional support animal.

(6) A tenant with a disability-related need for an emotional support animal is liable for any damage done to the premises or to another person on the premises by the tenant's emotional support animal.

(7) A health care practitioner may be subject to disciplinary action from the health care practitioner's licensing board for a violation of this section.

(8) This section does not apply to a service animal as defined in 49-4-203.

(9) Nothing in this section may be construed to restrict existing federal law and state law related to a person's right to a reasonable accommodation and equal access to housing, including but not limited to the federal Fair Housing Act, the federal Americans with Disabilities Act of 1990, or Title 49, chapter 2.

(10) As used in this section, the following definitions apply:

(a) "Emotional support animal" means an animal that *a health care practitioner has determined* provides emotional, cognitive, or other similar support to an individual with a disability and does not need to be trained or certified. The term does not include service animals as defined in 49-4-203.

(b) "Health care practitioner" means a mental health professional as defined in 53-21-102 *who is licensed to practice in this state and who:*

(i) has established a client-provider relationship with a tenant at least 30 days prior to providing supporting information requested from a landlord regarding the tenant's need for an emotional support animal;

(ii) completes a clinical evaluation of a tenant regarding the need for an emotional support animal; and

(iii) is acting within the scope of practice of the person's license or certificate."

Section 2. Section 70-33-110, MCA, is amended to read:

"70-33-110. Emotional support animals – documentation. (1) A tenant with a disability or a disability-related need for an emotional support animal may request and be approved by a landlord to keep an emotional support animal as a reasonable accommodation in housing.

(2) Unless otherwise prohibited by federal law, rule, or regulation, a landlord may:

(a) deny a reasonable accommodation request for an emotional support animal if the animal poses a direct threat to the safety or health of others or poses a direct threat of physical damage to the property that cannot be reduced or eliminated by another reasonable accommodation;

(b) if a tenant's disability-related need for an emotional support animal is not readily apparent, request supporting information that reasonably supports the tenant's need for the particular emotional support animal being requested. Supporting information *may must* include:

(i) information from a health care practitioner who has personal knowledge of the tenant's disability and is acting within the scope of the practitioner's practice that identifies the particular assistance or therapeutic emotional support provided by the specific animal. Information submitted under this subsection (2)(b)(i) must include the effective date, license number, and type of professional license held by the health care practitioner; and *or*

(ii) information from any other source that the landlord determines to be reliable in accordance with the federal Fair Housing Act and Title 49, chapter 2; and

(c) require proof of compliance with state and local licensure and vaccination requirements for each emotional support animal.

(3) If a tenant requests to keep more than one emotional support animal, information for each emotional support animal must be provided pursuant to subsection (2).

(4) A landlord:

(a) may not request information under this section that discloses a diagnosis or severity of a tenant's disability or any medical records relating to the disability, but a tenant may voluntarily disclose such information or medical records to the landlord at the tenant's discretion; and

(b) shall issue a written determination after receiving supplemental information required in subsection (2) and notice the determination pursuant to 70-33-106.

(5) An emotional support animal registration of any kind, including but not limited to an identification card, patch, certificate, or similar registration obtained electronically or in person, is not, by itself, sufficient information to reliably establish that a tenant has a disability-related need for an emotional support animal.

(6) A tenant with a disability-related need for an emotional support animal is liable for any damage done to the premises or to another person on the premises by the tenant's emotional support animal.

(7) A health care practitioner may be subject to disciplinary action from the health care practitioner's licensing board for a violation of this section.

(8) This section does not apply to a service animal as defined in 49-4-203.

(9) Nothing in this section may be construed to restrict existing federal law and state law related to a person's right to a reasonable accommodation and equal access to housing, including but not limited to the federal Fair Housing Act, the federal Americans with Disabilities Act, or Title 49, chapter 2.

(10) The required submission of documentation by a renter to a landlord verifying the need for an emotional support animal may not be construed to mandate or compel the landlord or a business to permit the entry or presence of the emotional support animal if the landlord or business complies with applicable federal, state, and local laws.

~~(10)~~(11) As used in this section, the following definitions apply:

(a) "Emotional support animal" means an animal that *a health care practitioner has determined* provides emotional, cognitive, or other similar support to an individual with a disability and does not need to be trained or certified. The term does not include service animals as defined in 49-4-203.

(b) "Health care practitioner" means a mental health professional as defined in 53-21-102 *who is licensed to practice in this state and who:*

(i) has established a client-provider relationship with a tenant at least 30 days prior to providing supporting information requested from a landlord regarding the tenant's need for an emotional support animal;

(ii) completes a clinical evaluation of a tenant regarding the need for an emotional support animal; and

(iii) is acting within the scope of practice of the person's license or certificate."

Approved May 5, 2025

CHAPTER NO. 361

[SB 154]

AN ACT REVISING THE PROHIBITION ON THE SALE OR PURCHASE OF HUMAN BODY PARTS UNDER THE REVISED UNIFORM ANATOMICAL GIFT ACT; PROHIBITING THE SALE OR PURCHASE OF WHOLE HUMAN BODIES; REVISING DEFINITIONS; AMENDING SECTIONS 72-17-102 AND 72-17-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 72-17-102, MCA, is amended to read:

"72-17-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Adult" means an individual who is at least 18 years of age.

(2) "Agent" means an individual:

(a) authorized to make health care decisions on the principal's behalf by a power of attorney for health care; or

(b) expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body to take effect upon or after death for the purposes of transplantation, therapy, research, or education.

(4) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift and includes a stillborn infant or fetus.

(5) "Department" means the department of public health and human services provided for in 2-15-2201.

(6) (a) "Disinterested witness" means a witness other than:

(i) the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift; or

(ii) another adult who exhibited special care and concern for the individual.
(b) The term does not include a person to which an anatomical gift could pass under 72-17-202.

(7) "Document of gift" means any of the following methods used to make an anatomical gift:

- (a) a card;
- (b) a statement attached to or imprinted on a driver's license, identification card, or donor registry;
- (c) a will or other writing; or
- (d) a witnessed oral statement.

(8) "Donor" means an individual whose body or part is the subject of an anatomical gift.

(9) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(10) "Driver's license" means a license or permit issued by any state or federal authority to operate a vehicle, whether or not conditions are attached to the license or permit.

(11) "Enucleator" means an individual who is certified pursuant to 72-17-311 to remove or process eyes or parts of eyes.

(12) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(13) (a) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, and welfare of an individual.

(b) The term does not include a guardian ad litem.

(14) "Hospital" means a facility licensed, accredited, or approved under the laws of any state or a facility operated as a hospital by the United States government, a state, or a subdivision of a state.

(15) (a) *"Human fetal tissue" means tissue or cells obtained from a dead human embryo or fetus after a spontaneous or induced abortion or after a stillbirth.*

(b) *The term does not include established human fetal cell lines.*

(15)(16) "Identification card" means an identification card issued by the department of justice.

(16)(17) "Know" means to have actual knowledge.

(17)(18) "Minor" means an individual who is under 18 years of age.

(18)(19) "Ophthalmologist" means a licensed physician or surgeon who specializes in the treatment or correction of diseases of the eye.

(19)(20) "Organ procurement organization" means a person designated by the secretary of the United States department of health and human services as an organ procurement organization.

(20)(21) "Parent" means a parent whose parental rights have not been terminated.

(21)(22) (a) "Part" means an organ, tissue, eye, bone, artery, blood, fluid, or other portion of a human body. *The term includes human fetal tissue.*

(b) The term does not include the whole body.

(22)(23) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, joint venture, association, limited liability company, public corporation, instrumentality, or any other legal or commercial entity.

(23)(24) "Physician" or "surgeon" means an individual licensed or otherwise authorized to practice medicine and surgery or osteopathy and surgery under the laws of any state.

(24)(25) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

(25)(26) (a) "Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education.

(b) The term does not include an individual who has made a refusal of an anatomical gift.

(26)(27) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(27)(28) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

(28)(29) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(29)(30) "Refusal" means a record created under 72-17-201 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

(30)(31) "Sign" means, with the present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

(31)(32) "State" means a state, territory, or possession of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(32)(33) "Technician" means an individual who is certified by the state board of medical examiners to remove or process a part.

(33)(34) "Tissue" means a portion of the human body other than an organ, an eye, or blood unless the blood is donated for the purpose of research or education.

(34)(35) "Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(35)(36) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients."

Section 2. Section 72-17-302, MCA, is amended to read:

"72-17-302. Sale or purchase of parts and whole bodies prohibited.

(1) A person may not knowingly, for valuable consideration;:

(a) purchase or sell a part for:

(i) transplantation or therapy, if removal of the part is intended to occur after the death of the decedent; or

(ii) *research, education, or the training of search and rescue canines; or*

(b) *purchase or sell a whole body for transplantation, therapy, research, education, or the training of search and rescue canines.*

(2) Valuable consideration does not include reasonable payment for the removal, processing, disposal, preservation, quality control, storage, or transportation of a part or a whole body, or for the implantation of a part.

(3) A person who violates this section is guilty of a felony and upon conviction is subject to a fine not exceeding \$50,000 or imprisonment not exceeding 5 years, or both."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 362

[SB 168]

AN ACT REVISING LAWS REGARDING LAKESHORE PROTECTION; PROVIDING A STATUTE OF LIMITATIONS FOR ACTIONS AGAINST PROPERTY OWNERS OR CONTRACTORS FOR VIOLATING LAKESHORE REGULATIONS; PROVIDING EXEMPTIONS FROM FUTURE PERMITTING FOR ONGOING MAINTENANCE, REMODELING, OR MINOR MODIFICATIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Article II, section 3, of the Montana Constitution creates a fundamental right to acquire, possess, and protect private property; and

WHEREAS, a local governing body or the state has had ample opportunity to initiate an enforcement action if the governing body or the state believes the lakeshore or aquatic life is being threatened by historical structures located within the lakeshore protection zone area.

Be it enacted by the Legislature of the State of Montana:

Section 1. Lakeshore protection zone statute of limitations – exemptions from future permitting. (1) (a) As applied to any clearly visible boat ramp, boat house, boat shore station, boat rail system, dock system, pier, wharf, retaining wall, road, or other structure located within the lakeshore protection zone, the period prescribed for the commencement of an action against a property owner or the property owner's contractor for a violation of lakeshore regulations adopted pursuant to 75-7-207 is within 3 years of completion of construction or issuance of the permit, whichever occurs later.

(b) The limitation set forth in subsection (1)(a) does not apply to an item that was constructed illegally and that:

(i) causes documented, material harm to lakeshore stability, water quality, or aquatic life;

(ii) materially interferes with navigation or other lawful recreation activities; or

(iii) creates a documented public nuisance.

(2) (a) Minor ongoing maintenance, minor remodeling, or minor modifications to the items described in subsection (1)(a) are exempt from lakeshore protection review unless the activity involves significant excavation, dredging, in-fill of material, diminishment of aquatic life, or interference with navigation or lawful recreation activities.

(b) For the purposes of subsection (2)(a), "minor" means a change to an item described in subsection (1)(a) that is less than \$10,000 over a 5-year period, exclusive of personal services provided by the property owner or another individual at no cost to the property owner.

(3) This section may not be construed to prevent the local governing body or state from compensating a property owner to remove or alter any of the items described in subsection (1)(a) if the governing body or state believes it is in the best interests of lakeshore protection and aquatic life.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 75, chapter 7, part 2, and the provisions of Title 75, chapter 7, part 2, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 363

[SB 177]

AN ACT AUTHORIZING THE COMMUNITY CHOICE SCHOOL COMMISSION TO SEEK AND RECEIVE PUBLIC FUNDING AND CLARIFYING THE COMMISSION'S ABILITY TO RECEIVE AND EXPEND GIFTS FROM PRIVATE INDIVIDUALS; AMENDING SECTION 20-11-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-11-106, MCA, is amended to read:

“20-11-106. Community choice school commission – appointments.

(1) There is an autonomous state community choice school commission with statewide authorizing jurisdiction and authority. The commission is attached to the board of public education for administrative purposes, as prescribed in 2-15-121(2), except as provided in this section, and is under the general supervision of the board of public education as set forth in this section.

(2) The commission is responsible for approving authorizers for choice schools throughout the state.

(3) The commission consists of seven members who are appointed as follows:

- (a) two members appointed by the governor;
- (b) one member appointed by the superintendent of public instruction
- (c) one member appointed by the president of the senate;
- (d) one member appointed by the speaker of the house;
- (e) one member appointed by the minority leader of the senate; and
- (f) one member appointed by the minority leader of the house of representatives.

(4) Members appointed to the commission must collectively possess substantial experience and expertise in board governance, business, finance, education, management, and philanthropy. All members of the commission must have a demonstrated understanding of and commitment to choice schools as a strategy for strengthening public education.

(5) (a) Initial appointments to the commission must be for staggered terms as follows:

(i) 4-year terms for the appointees of the governor, one of whom must be designated by the governor as the initial presiding officer of the commission for 2 years;

(ii) 3-year terms for the appointees of the superintendent of public instruction and the minority leaders of the senate and house of representatives; and

(iii) 2-year terms for the appointees of the president of the senate and speaker of the house.

(b) All terms after the initial term must be for 3 years. Appointment to the initial terms must be made no later than 60 days following July 1, 2023. If any of the appointing authorities fails to make the appointments, the remaining appointing authorities may make the remaining appointments.

(6) Each member of the commission is entitled to reimbursement for expenses upon approval of the treasurer of the commission as provided in the commission's bylaws.

(7) A member of the commission may be removed by a majority vote of the commission for any cause that renders the member unable or unfit to discharge the duties of the office, including but not limited to failure to approve an authorizer or a choice school without just cause and interference with the functions of the commission as set forth in this part. Whenever a vacancy on the commission exists, the original appointing authority shall appoint a member for the remaining portion of the term consistent with the requirements of subsections (4) and (5).

(8) (a) The commission is authorized to receive and expend gifts and donations of any kind from any private ~~entity~~ source, *including an individual*. The gifts and donations may not require conditions that do not comport with the purposes of this part. Gifts and donations under this subsection (8)(a) must be deposited in the community choice school account pursuant to 20-11-126 and may be used by the commission for commission operations or distributed to choice schools at the discretion of the commission.

(b) *The commission is authorized to seek and receive public funding that comports with the purposes of this part.*

(9) The commission may hire staff for the commission. Support staff may be provided by the board of public education for centralized services, including payroll, human resources, accounting, information technology, or other services, if those services are determined by the commission and the board to be more efficiently provided by the board.

(10) The commission shall convene and approve bylaws and officers within 180 days of July 1, 2023.

(11) All commission meetings are open to the public pursuant to Article II, section 9, of the Montana constitution and 2-3-203.

(12) By August 1 of each year, the commission shall annually report to the state board of public education the academic performance and financial reports of each choice school authorized within the state."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 364

[SB 191]

AN ACT PROVIDING FOR THE CREATION AND LICENSURE OF RESIDENTIAL TREATMENT CENTERS; GRANTING RULEMAKING AUTHORITY TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; EXTENDING FUNDING OF APPROPRIATE EDUCATIONAL OPPORTUNITIES TO CHILDREN IN RESIDENTIAL TREATMENT CENTERS; AND AMENDING SECTIONS 20-7-419, 20-7-436, AND 50-5-101, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Licensing of residential treatment centers – rulemaking. (1) The department shall license residential treatment centers, as defined in 50-5-101.

(2) The department shall adopt administrative rules for licensure, including:

- (a) an appropriate staff-to-patient ratio;
- (b) minimum qualifications for staff;
- (c) staff training requirements;

(d) required treatment services and if the services must be provided on-site or if they may be provided through arrangements with other health care facilities;

(e) insurance requirements;

(f) fingerprint background checks for anyone with regular access to patients, including staff, volunteers, and mental health contractors;

(g) guidelines for written policies and procedures, including those for suicide prevention;

(h) abuse and neglect reporting requirements;

(i) provisional licensure as provided in subsection (5); and

(j) other rules the department considers necessary to ensure the safe operation of residential treatment centers.

(3) The department shall align licensure and other requirements for residential treatment centers with the requirements provided for in 52-2-805 and 52-2-810.

(4) Residential treatment centers must have accreditation granted by an accrediting entity approved by the U.S. centers for medicare and medicaid services.

(5) (a) The department may grant an initial 6-month provisional license to a facility that submits written evidence of its application for accreditation as required by subsection (4) and is in the process of obtaining full accreditation.

(b) The department may grant an additional 6-month provisional license to a facility that submits written evidence of its application for accreditation as required by subsection (4) and is in the process of accreditation.

(c) Provisional licensure may not exceed 1 year.

Section 2. Section 20-7-419, MCA, is amended to read:

“20-7-419. Rules. The superintendent of public instruction shall adopt rules for the implementation of 20-7-420, 20-7-421, 20-7-422, 20-7-435, and 20-7-436, including but not limited to:

(1) the calculation of tuition under 20-7-420;

(2) the calculation and distribution of funds under 20-7-435; and

(3) the determination of responsibilities of children’s psychiatric hospitals, residential treatment facilities, *residential treatment centers*, therapeutic group homes, and public schools pursuant to 20-7-435.”

Section 3. Section 20-7-436, MCA, is amended to read:

“20-7-436. Definitions. For the purposes of 20-7-435 and this section, the following definitions apply:

(1) “Appropriate educational opportunity” means:

(a) for an eligible child without a disability:

(i) if provided by a nonpublic school, an education program provided in accordance with the requirements for a nonpublic school under the provisions of 20-5-109; and

(ii) if provided by a public school, an education program consistent with accreditation standards provided for in 20-7-111; and

(b) for an eligible child with a disability, a free appropriate public education consistent with state standards for the provision of special education and related services.

(2) (a) “Children’s psychiatric hospital” means a freestanding hospital in Montana that:

(i) has the primary purpose of providing clinical care for children and youth whose clinical diagnosis and resulting treatment plan require in-house residential psychiatric care; and

(ii) is accredited by the joint commission on accreditation of healthcare organizations, the standards of the centers for medicare and medicaid services, or other comparable accreditation.

(b) The term does not include programs for children and youth for whom the treatment of chemical dependency is the primary reason for treatment.

(3) "Eligible child" means a Montana resident child or youth who is less than 19 years of age on September 10 of the school year and who has a serious emotional disturbance that is so severe that the child or youth has been placed in a qualifying facility for treatment.

(4) "Qualifying facility" means a children's psychiatric hospital, a residential treatment facility, *a residential treatment center as defined in 50-5-101*, or a therapeutic group home located in Montana.

(5) (a) "Residential treatment facility" means a facility in the state that:

(i) provides services for children or youth with serious emotional disturbances;

(ii) operates for the primary purpose of providing residential psychiatric care to individuals under 21 years of age;

(iii) is licensed by the department of public health and human services; and

(iv) participates in the Montana medicaid program for psychiatric facilities or programs providing psychiatric services to individuals under 21 years of age; or

(v) notwithstanding the provisions of subsections (5)(a)(iii) and (5)(a)(iv), has received a certificate of need from the department of public health and human services pursuant to Title 50, chapter 5, part 3, prior to January 1, 1993.

(b) The term does not include programs for children and youth for whom the treatment of chemical dependency is the primary reason for treatment.

(6) "Therapeutic group home" means an in-state treatment facility providing therapeutic services licensed and under contract with the department of public health and human services as a youth care facility, as defined in 52-2-602."

Section 4. Section 50-5-101, MCA, is amended to read:

"50-5-101. Definitions. As used in parts 1 through 3 of this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Accreditation" means a designation of approval.

(2) "Activities of daily living" means tasks usually performed in the course of a normal day in a resident's life that include eating, walking, mobility, dressing, grooming, bathing, toileting, and transferring.

(3) "Adult day-care center" means a facility, freestanding or connected to another health care facility, that provides adults, on a regularly scheduled basis, with the care necessary to meet the needs of daily living but that does not provide overnight care.

(4) (a) "Adult foster care home" means a private home or other facility that offers, except as provided in 50-5-216, only light personal care or custodial care to four or fewer disabled adults or aged persons who are not related to the owner or manager of the home by blood, marriage, or adoption or who are not under the full guardianship of the owner or manager.

(b) As used in this subsection (4), the following definitions apply:

(i) "Aged person" means a person as defined by department rule as aged.

(ii) "Custodial care" means providing a sheltered, family-type setting for an aged person or disabled adult so as to provide for the person's basic needs of food and shelter and to ensure that a specific person is available to meet those basic needs.

(iii) "Disabled adult" means a person who is 18 years of age or older and who is defined by department rule as disabled.

(iv) (A) "Light personal care" means assisting the aged person or disabled adult in accomplishing such personal hygiene tasks as bathing, dressing, and hair grooming and supervision of prescriptive medicine administration.

(B) The term does not include the administration of prescriptive medications.

(5) "Affected person" means an applicant for a certificate of need, a long-term care facility located in the geographic area affected by the application, an agency that establishes rates for long-term care facilities, or a third-party payer who reimburses long-term care facilities in the area affected by the proposal.

(6) "Assisted living facility" means a congregate residential setting that provides or coordinates personal care, 24-hour supervision and assistance, both scheduled and unscheduled, and activities and health-related services.

(7) "Capital expenditure" means:

(a) an expenditure made by or on behalf of a long-term care facility that, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance; or

(b) a lease, donation, or comparable arrangement that would be a capital expenditure if money or any other property of value had changed hands.

(8) "Certificate of need" means a written authorization by the department for a person to proceed with a proposal subject to 50-5-301.

(9) "Chemical dependency facility" means a facility whose function is the treatment, rehabilitation, and prevention of the use of any chemical substance, including alcohol, that creates behavioral or health problems and endangers the health, interpersonal relationships, or economic function of an individual or the public health, welfare, or safety.

(10) "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological, radiobioassay, cytological, immunohematological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of a disease or assessment of a medical condition.

(11) "Comparative review" means a joint review of two or more certificate of need applications that are determined by the department to be competitive in that the granting of a certificate of need to one of the applicants would substantially prejudice the department's review of the other applications.

(12) "Congregate" means the provision of group services designed especially for elderly or disabled persons who require supportive services and housing.

(13) "Construction" means the physical erection of a new health care facility and any stage of the physical erection, including groundbreaking, or remodeling, replacement, or renovation of:

(a) an existing health care facility; or

(b) a long-term care facility as defined in 50-5-301.

(14) "Critical access hospital" means a facility that is located in a rural area, as defined in 42 U.S.C. 1395ww(d)(2)(D), and that has been designated by the department as a critical access hospital pursuant to 50-5-233.

(15) "Department" means the department of public health and human services provided for in 2-15-2201.

(16) "Eating disorder center" means a facility that specializes in the treatment of eating disorders.

(17) "End-stage renal dialysis facility" means a facility that specializes in the treatment of kidney diseases and includes freestanding hemodialysis units.

(18) "Federal acts" means federal statutes for the construction of health care facilities.

(19) "Governmental unit" means the state, a state agency, a county, municipality, or political subdivision of the state, or an agency of a political subdivision.

(20) (a) "Health care facility" or "facility" means all or a portion of an institution, building, or agency, private or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual. The term includes abortion clinics as defined in 50-20-901, chemical dependency facilities, critical access hospitals, eating disorder centers, end-stage renal dialysis facilities, home health agencies, home infusion therapy agencies, hospices, hospitals, infirmaries, long-term care facilities, intermediate care facilities for the developmentally disabled, medical assistance facilities, mental health centers, outpatient centers for primary care, outpatient centers for surgical services, rehabilitation facilities, residential care facilities, residential treatment facilities, *residential treatment centers*, and rural emergency hospitals.

(b) The term does not include offices of private physicians, dentists, or other physical or mental health care workers regulated under Title 37, including licensed addiction counselors.

(21) "Home health agency" means a public agency or private organization or subdivision of the agency or organization that is engaged in providing home health services to individuals in the places where they live. Home health services must include the services of a licensed registered nurse and at least one other therapeutic service and may include additional support services.

(22) "Home infusion therapy agency" means a health care facility that provides home infusion therapy services.

(23) "Home infusion therapy services" means the preparation, administration, or furnishing of parenteral medications or parenteral or enteral nutritional services to an individual in that individual's residence. The services include an educational component for the patient, the patient's caregiver, or the patient's family member.

(24) "Hospice" means a coordinated program of home and inpatient health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component. The term includes:

(a) an inpatient hospice facility, which is a facility managed directly by a medicare-certified hospice that meets all medicare certification regulations for freestanding inpatient hospice facilities; and

(b) a residential hospice facility, which is a facility managed directly by a licensed hospice program that can house three or more hospice patients.

(25) (a) "Hospital" means a facility providing, by or under the supervision of licensed physicians, services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals. Except as otherwise provided by law, services provided must include medical personnel available to provide emergency care onsite 24 hours a day and may include any other service allowed by state licensing authority. A hospital has an organized medical staff that is on call and available within 20 minutes, 24 hours a day, 7 days a week, and provides 24-hour nursing care by licensed registered nurses. The term includes:

(i) hospitals specializing in providing health services for psychiatric, developmentally disabled, and tubercular patients; and

(ii) specialty hospitals.

(b) The term does not include critical access hospitals.

(c) The emergency care requirement for a hospital that specializes in providing health services for psychiatric, developmentally disabled, or

tubercular patients is satisfied if the emergency care is provided within the scope of the specialized services provided by the hospital and by providing 24-hour nursing care by licensed registered nurses.

(26) "Infirmity" means a facility located in a university, college, government institution, or industry for the treatment of the sick or injured, with the following subdefinitions:

(a) an "infirmity--A" provides outpatient and inpatient care;

(b) an "infirmity--B" provides outpatient care only.

(27) (a) "Intermediate care facility for the developmentally disabled" means a facility or part of a facility that provides intermediate developmental disability care for two or more persons.

(b) The term does not include community homes for persons with developmental disabilities that are licensed under 53-20-305 or community homes for persons with severe disabilities that are licensed under 52-4-203.

(28) "Intermediate developmental disability care" means the provision of intermediate nursing care services, health-related services, and social services for persons with a developmental disability, as defined in 53-20-102, or for persons with related problems.

(29) "Intermediate nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.

(30) "Licensed health care professional" means a licensed physician, physician assistant, advanced practice registered nurse, or registered nurse who is practicing within the scope of the license issued by the department of labor and industry.

(31) (a) "Long-term care facility" means a facility or part of a facility that provides skilled nursing care, residential care, intermediate nursing care, or intermediate developmental disability care to a total of two or more individuals or that provides personal care.

(b) The term does not include community homes for persons with developmental disabilities licensed under 53-20-305; community homes for persons with severe disabilities, licensed under 52-4-203; youth care facilities, licensed under 52-2-622; hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or individuals who do not require institutional health care; or correctional facilities operating under the authority of the department of corrections.

(32) "Medical assistance facility" means a facility that meets both of the following:

(a) provides inpatient care to ill or injured individuals before their transportation to a hospital or that provides inpatient medical care to individuals needing that care for a period of no longer than 96 hours unless a longer period is required because transfer to a hospital is precluded because of inclement weather or emergency conditions. The department or its designee may, upon request, waive the 96-hour restriction retroactively and on a case-by-case basis if the individual's attending physician, physician assistant, or nurse practitioner determines that the transfer is medically inappropriate and would jeopardize the health and safety of the individual.

(b) either is located in a county with fewer than six residents a square mile or is located more than 35 road miles from the nearest hospital.

(33) "Mental health center" means a facility providing services for the prevention or diagnosis of mental illness, the care and treatment of mentally ill patients, the rehabilitation of mentally ill individuals, or any combination of these services.

(34) "Nonprofit health care facility" means a health care facility owned or operated by one or more nonprofit corporations or associations.

(35) "Offer" means the representation by a health care facility that it can provide specific health services.

(36) (a) "Outdoor behavioral program" means a program that provides treatment, rehabilitation, and prevention for behavioral problems that endanger the health, interpersonal relationships, or educational functions of a youth and that:

(i) serves either adjudicated or nonadjudicated youth;

(ii) charges a fee for its services; and

(iii) provides all or part of its services in the outdoors.

(b) "Outdoor behavioral program" does not include recreational programs such as boy scouts, girl scouts, 4-H clubs, or other similar organizations.

(37) "Outpatient center for primary care" means a facility that provides, under the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients and that is not an outpatient center for surgical services.

(38) "Outpatient center for surgical services" means a clinic, infirmary, or other institution or organization that is specifically designed and operated to provide surgical services to patients not requiring hospitalization and that may include recovery care beds.

(39) "Patient" means an individual obtaining services, including skilled nursing care, from a health care facility.

(40) "Person" means an individual, firm, partnership, association, organization, agency, institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.

(41) "Personal care" means the provision of services and care for residents who need some assistance in performing the activities of daily living.

(42) "Practitioner" means an individual licensed by the department of labor and industry who has assessment, admission, and prescription authority.

(43) "Recovery care bed" means, except as provided in 50-5-235, a bed occupied for less than 24 hours by a patient recovering from surgery or other treatment.

(44) "Rehabilitation facility" means a facility that is operated for the primary purpose of assisting in the rehabilitation of disabled individuals by providing comprehensive medical evaluations and services, psychological and social services, or vocational evaluation and training or any combination of these services and in which the major portion of the services is furnished within the facility.

(45) "Resident" means an individual who is in a long-term care facility or in a residential care facility.

(46) "Residential care facility" means an adult day-care center, an adult foster care home, an assisted living facility, or a retirement home.

(47) "Residential psychiatric care" means active psychiatric treatment provided in a residential treatment facility to psychiatrically impaired individuals with persistent patterns of emotional, psychological, or behavioral dysfunction of such severity as to require 24-hour supervised care to adequately treat or remedy the individual's condition. Residential psychiatric care must be individualized and designed to achieve the patient's discharge to less restrictive levels of care at the earliest possible time.

(48) "*Residential treatment center*" means a facility that offers primary mental health services, assessment, counseling, skilled nursing services, medication management, co-occurring substance use disorder treatment, and

behavioral health treatment in a residential setting 24 hours a day to youth under 19 years of age whose mental health needs are not met in other settings.

(48)(49) “Residential treatment facility” means a facility operated for the primary purpose of providing residential psychiatric care to individuals under 21 years of age.

(49)(50) “Retirement home” means a building or buildings in which separate living accommodations are rented or leased to individuals who use those accommodations as their primary residence.

(50)(51) “Rural emergency hospital” means a facility defined in 42 U.S.C. 1395x(kkk)(2) that is designated by the department as a rural emergency hospital in accordance with 50-5-234.

(51)(52) “Skilled nursing care” means the provision of nursing care services, health-related services, and social services under the supervision of a licensed registered nurse on a 24-hour basis.

(52)(53) (a) “Specialty hospital” means a subclass of hospital that is exclusively engaged in the diagnosis, care, or treatment of one or more of the following categories:

- (i) patients with a cardiac condition;
- (ii) patients with an orthopedic condition;
- (iii) patients undergoing a surgical procedure; or
- (iv) patients treated for cancer-related diseases and receiving oncology services.

(b) For purposes of this subsection (52) (53), a specialty hospital may provide other services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals as otherwise provided by law if the care encompasses 35% or less of the hospital services.

(c) The term “specialty hospital” does not include:

- (i) psychiatric hospitals;
- (ii) rehabilitation hospitals;
- (iii) children’s hospitals;
- (iv) long-term care hospitals; or
- (v) critical access hospitals.

(53)(54) “State long-term care facilities plan” means the plan prepared by the department to project the need for long-term care facilities within Montana and approved by the governor and a statewide health coordinating council appointed by the director of the department.

(54)(55) “Swing bed” means a bed approved pursuant to 42 U.S.C. 1395tt to be used to provide either acute care or extended skilled nursing care to a patient.”

Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 50, chapter 5, part 2, and the provisions of Title 50, chapter 5, part 2, apply to [section 1].

Approved May 5, 2025

CHAPTER NO. 365

[SB 193]

AN ACT PROVIDING THAT THE CHIEF JUSTICE OF THE MONTANA SUPREME COURT IS RESPONSIBLE FOR APPOINTING MEMBERS OF THE ATTORNEYS’ EXAMINING BOARD; AND AMENDING SECTION 37-61-102, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-61-102, MCA, is amended to read:

“37-61-102. Attorneys’ examining board – appointment, quorum, and powers. (1) The ~~supreme court~~ *chief justice of the Montana supreme court* shall appoint members of the bar of this state, in good standing, as an examining board to conduct and assist in conducting the examination of applicants for admission to the bar. The board may not exceed seven members. The ~~court~~ *chief justice* may release, dismiss, or remove any member of the board and appoint other members at any time.

(2) A majority of the board is a quorum and may conduct examinations.

(3) The board shall perform the duties and render assistance in the examinations of applicants as prescribed by the ~~court~~ *chief justice* and is governed and controlled by the rules that the ~~court~~ *chief justice* may prescribe.”

Approved May 5, 2025

CHAPTER NO. 366

[SB 194]

AN ACT ELIMINATING THE BOARD OF PUBLIC ASSISTANCE; GENERALLY REVISING PROCEDURES FOR APPEALS RELATED TO PUBLIC ASSISTANCE CLAIMS; AMENDING SECTION 53-2-606, MCA; REPEALING SECTION 2-15-2203, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-2-606, MCA, is amended to read:

“53-2-606. Right of appeal. (1) If an application for assistance for food stamps, cash assistance or nonfinancial assistance, as defined in 53-2-902, or medicaid is not acted upon promptly or if a decision is made by which the applicant or recipient is aggrieved, the applicant or recipient may appeal to the ~~board of public assistance department~~ for a fair hearing by addressing a request for a hearing to the department. The ~~board of public assistance department~~ shall, upon receipt of a request for a hearing, give the applicant or recipient prompt notice and opportunity for a fair hearing.

(2) The department may upon its own motion review any decision of a local office of public assistance and may consider any application upon which a decision has not been made within a reasonable time from the filing of the decision. The department may have an additional eligibility determination made and shall determine whether and in what amount assistance is to be granted under the provisions of this title.

(3) If the department reviews a decision on its own motion, applicants or recipients affected by the decisions of the department must upon request be given reasonable notice and an opportunity for a fair hearing ~~by the board of public assistance.~~”

Section 2. Repealer. The following section of the Montana Code Annotated is repealed:

2-15-2203. Board of public assistance -- allocation -- quasi-judicial.

Section 3. Transition. The board of public assistance shall remain operational until all appeals that were filed with the board on or before [the effective date provided in section 5(1)] are resolved by the board. If a vacancy occurs on the board before that time, the vacancy must be filled as provided in 2-15-2203.

Section 4. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date provided in section 5(1)].

Section 5. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 2] is effective October 1, 2025.

Section 6. Applicability. [Section 1] applies to appeals filed on or after [the effective date provided in section 5(1)].

Approved May 5, 2025

CHAPTER NO. 367

[SB 201]

AN ACT REVISING CLEANUP LAWS FOR PROPERTIES CONTAMINATED WITH METHAMPHETAMINES OR FENTANYL; PROVIDING FOR CERTIFICATION OF REMEDIATION CONTRACTORS; REVISING DECONTAMINATION STANDARDS; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 75-10-1301, 75-10-1302, 75-10-1303, 75-10-1304, 75-10-1305, AND 75-10-1306, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Remediation certification required – investigation of complaint – penalties. (1) A person may not represent to the public that the person is certified to assess or remediate inhabitable property or volunteer property contaminated by methamphetamine or fentanyl residues unless the person is certified by the department under this part.

(2) The department may investigate a complaint or other information received concerning practice by an uncertified person of activities authorized by this part.

(3) For a person guilty of violating subsection (1), the department may:

(a) for a first offense:

(i) revoke the person's license or certification;

(ii) issue a fine of not more than \$1,000; and

(iii) require completion of not less than 16 hours of certification training;

and

(b) for a second offense:

(i) revoke the person's license or certification;

(ii) issue a fine of not more than \$2,000; and

(iii) require completion of not less than 24 hours of certification training.

Section 2. Decontamination of volunteer property – verification – no public list. (1) The department shall determine if and verify when a volunteer property has met all decontamination requirements pursuant to 75-10-1303.

(2) The department may not list any volunteer properties on a publicly accessible website or other locations.

Section 3. Section 75-10-1301, MCA, is amended to read:

“75-10-1301. Finding and purpose. The legislature finds that some properties are being contaminated with hazardous chemical residues created by the manufacture of methamphetamine *and fentanyl* or the ~~smoke from the use~~ *consumption* of methamphetamine *or fentanyl*. Innocent members of the public may be harmed when they are unknowingly exposed to these residues if the properties are not decontaminated prior to any subsequent rental, sale, or use of the properties. Remediation of properties has been frustrated by the

lack of a decontamination standard. The purpose of this part is to protect the public health, safety, and welfare by providing specific cleanup standards and authorizing the department to establish a voluntary program that will provide for a property decontamination process that will meet state standards.”

Section 4. Section 75-10-1302, MCA, is amended to read:

“75-10-1302. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

(1) *“Certified contractor” means any person or company certified by the department to perform the assessment or remediation of inhabitable property or volunteer property contaminated by methamphetamine or fentanyl residues pursuant to 75-10-1304.*

(2) *“Department” means the department of environmental quality provided for in 2-15-3501.*

(2)(3) (a) *“Inhabitable property” means any building or structure used as a clandestine methamphetamine or fentanyl drug lab or that has been contaminated with hazardous chemical residues from smoke from the use consumption of methamphetamine or fentanyl that is intended to be primarily occupied by people, either as a dwelling or a business, including a storage facility; or mobile home, or recreational vehicle; that may be sold, leased, or rented for any length of time.*

(b) The term does not mean any water system, sewer system, land, or water outside of a building or structure described in subsection (2)(a) (3)(a).

(3)(4) *“Surface material” means any porous or nonporous substance common to the interior of a building or structure, including but not limited to ceilings and walls, window coverings, floors and floor coverings, counters, furniture, heating and cooling duct work, and any other surfaces to which inhabitants of the building or structure may be exposed.*

(5) *“Volunteer property” means an inhabitable property meeting the following criteria:*

(a) *the property owner has become aware of contamination with hazardous chemical residues from consumption of methamphetamine or fentanyl;*

(b) *the property has not been reported by law enforcement pursuant to 75-10-1306(1); and*

(c) *the property owner has elected to follow processes to meet the decontamination standard in 75-10-1303 to receive certification from the department that the decontamination standard has been met.”*

Section 5. Section 75-10-1303, MCA, is amended to read:

“75-10-1303. Decontamination standards – rulemaking authority – samples. (1) The decontamination standard for ~~methamphetamine inside methamphetamine inside~~ inhabitable property is less than or equal to 1.5 micrograms of methamphetamine ~~per~~ for each 100 square centimeters of surface material unless a different standard is adopted by the department by rule to protect human health. The department:

(a) *shall adopt standards by rule for the decontamination of fentanyl inside inhabitable property; and*

(b) *may adopt standards by rule for precursors to methamphetamine and fentanyl that are consistent with the standard standards for methamphetamine and fentanyl.*

(2) (a) The department may by rule establish the number and locations of surface material samples to be collected based on the circumstances of the contamination and acceptable testing methods.

(b) In the absence of a rule described in subsection (2)(a), at least ~~three~~ six samples must be collected from the surface material most likely to be

contaminated at each property, *including at least three samples from the heating, ventilation, and air conditioning systems at each property if present.*"

Section 6. Section 75-10-1304, MCA, is amended to read:

"75-10-1304. Contractor certification – department authority.

(1) The department ~~is authorized to~~ *shall* establish by rule ~~minimum~~ standards for the training and certification of contractors and their employees who are to perform the assessment or remediation of inhabitable property contaminated by methamphetamine *or fentanyl* residues ~~or other dangerous drug residues.~~

(2) The department ~~may~~ *may* train and test or ~~may~~ *may* approve courses to train and test contractors and their employees in the proper methods of assessing, remediating, and testing inhabitable property contaminated by methamphetamine residues *or fentanyl residues*. If the department conducts the training and testing of contractors and their employees, it may adopt rules to provide for the assessment of reasonable fees to cover the state's costs of providing the training and testing.

(3) The department shall establish by rule procedures for the certification of contractors and their employees, including procedures for the decertification of contractors and their employees for cause. The rules may provide for the assessment of reasonable fees to cover the cost of the contractor certification program.

(4) Any contractor and the contractor's employees certified to perform the remediation of inhabitable property in any other state ~~are approved for certification in Montana unless the department determines that the certification process in the other state is not substantially similar to the minimum certification standards established by the department~~ *must complete refresher training by the department or a department-approved training provider to qualify for certification in Montana.*

(5) The department shall maintain a list of certified contractors and shall make the list available to local health officials, law enforcement officials, and the public."

Section 7. Section 75-10-1305, MCA, is amended to read:

"75-10-1305. Occupant notice by owner of inhabitable property – immunity.

(1) An owner of inhabitable property that is known by the owner to have been used as a clandestine methamphetamine *or fentanyl* drug lab or that has been contaminated from ~~smoke from the use~~ *consumption* of methamphetamine *or fentanyl* shall notify in writing any subsequent occupant or purchaser of the inhabitable property of that fact if the inhabitable property has not been remediated to the standards established in 75-10-1303 by a ~~contractor who is certified in accordance with 75-10-1304~~ *certified contractor.*

(2) An owner or an owner's agent referred to in subsection (1) may provide notice to a subsequent occupant or purchaser that the owner or the owner's agent has submitted:

(a) documentation to the department by a *certified* contractor ~~who is certified pursuant to 75-10-1304~~ that the inhabitable property has been remediated to the standards established in 75-10-1303; or

(b) documentation by a certified contractor that the property meets the decontamination standards without decontamination.

(3) Notice as required or authorized in this section must occur before agreement to a lease or sale of the inhabitable property.

(4) If the department has confirmed that the decontamination standard provided for in 75-10-1303 has been met and if notice has been given as provided in subsections (2) and (3), the owner and the owner's agent are not liable in any action brought by a person who has been given notice that is based on the presence of methamphetamine in an inhabitable property."

Section 8. Section 75-10-1306, MCA, is amended to read:

“75-10-1306. Reporting requirements. (1) Whenever a state or local law enforcement agency becomes aware that an inhabitable property has been contaminated by its use as a clandestine methamphetamine or *fentanyl* drug lab, the agency shall report the contamination to the department and to the local health officer.

(2) The department shall maintain a list of inhabitable property that has been reported as contaminated, and the list must be made available to the public through a website except as provided in subsection (3).

(3) Upon confirmation by the department that an inhabitable property has been properly remediated to the standards established in 75-10-1303 or that the inhabitable property meets the decontamination standards without decontamination, the department shall remove the inhabitable property from the list required in subsection (2). The department shall provide written notification to the local health officer and the property owner of record when the documentation shows that the inhabitable property has been properly assessed or remediated.

(4) The department may adopt rules establishing reasonable requirements for the sufficiency of documentation to be provided by a certified contractor.

(5) Notwithstanding any other provision of law, once an inhabitable property has been removed from the list required in subsection (2), a property owner, landlord, or real estate agent is not required to report or otherwise disclose the past contamination.”

Section 9. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 75, chapter 10, part 13, and the provisions of Title 75, chapter 10, part 13, apply to [sections 1 and 2].

Approved May 5, 2025

CHAPTER NO. 368

[SB 213]

AN ACT REVISING STATE BUILDING CODES ADOPTED BY RULE; ALLOWING CERTAIN RESIDENTIAL BUILDINGS TO BE PERMITTED WITH A SINGLE STAIRWELL; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 50-60-203, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-60-203, MCA, is amended to read:

“50-60-203. Department to adopt state building code by rule. (1) (a) The department shall adopt rules relating to the construction of, the installation of equipment in, and standards for materials to be used in all buildings or classes of buildings, including provisions dealing with safety, accessibility to persons with disabilities, sanitation, and conservation of energy. The adoption, amendment, or repeal of a rule is of significant public interest for purposes of 2-3-103.

(b) Rules concerning the conservation of energy must conform to the policy established in 50-60-801 and to relevant policies developed under the provisions of Title 90, chapter 4, part 10.

(2) The department may adopt by reference nationally recognized building codes in whole or in part, except as provided in subsections (5) and (6), and may adopt rules more stringent than those contained in national codes.

(3) The rules, when adopted as provided in parts 1 through 4, constitute the “state building code” and are acceptable for the buildings to which they are applicable.

(4) The department shall adopt rules that permit the installation of below-grade liquefied petroleum gas-burning appliances.

(5) The department may not include in the state building code:

(a) a requirement for the installation of a fire sprinkler system in a single-family dwelling or a residential building that contains no more than two dwelling units; or

(b) a requirement that buildings be constructed to have solar panels or wiring, batteries, or other equipment for solar panels or electric vehicles.

(6) The department may not include in the state building code a prohibition of or limitation on the use of electric, natural gas, propane, or other energy source.

(7) (a) The department shall, by rule, adopt by reference the most recently published edition of the national fire protection association's publication NFPA 99C for the installation of medical gas piping systems. The department may, by rule, issue plumbing permits for medical gas piping systems and require inspections of medical gas piping systems.

(b) A state, county, city, or town building code compliance officer shall, as part of any inspection, request proof of a medical gas piping installation endorsement from any person who is required to hold an endorsement or who, in the inspector's judgment, appears to be involved with onsite medical gas piping activity. The inspector shall report any instance of endorsement violation to the inspector's employing agency, and the employing agency shall report the violation to the board of plumbers.

(8) The department may not prohibit or limit in the state building code the use of refrigerants listed as acceptable for use by the United States environmental protection agency pursuant to 42 U.S.C. 7671k as safe alternatives to class I and class II ozone-depleting substances. Any equipment containing the alternative refrigerant must be installed in accordance with applicable safety standards and use conditions as determined by the environmental protection agency.

(9) (a) The department shall permit a place of religious worship to use its building space to accommodate temporary overnight visitors for the purpose of religious retreats, ministry programs, overnight events, and emergency or catastrophic occurrences or to provide shelter or to accommodate displaced persons due to hardship or inclement weather, provided that:

(i) a place of religious worship may not accommodate overnight visitors in the aggregate for more than 75 days in a calendar year unless the governor has declared a state of emergency pursuant to 10-3-303 or exigent circumstances exist;

(ii) a place of religious worship acting in accordance with this subsection (9) may not charge for the temporary accommodation of overnight visitors; and

(iii) a place of religious worship that temporarily accommodates overnight visitors as provided in this subsection (9) has one of the following:

(A) an automatic fire sprinkler system in the area used for temporary overnight accommodations that is monitored by a third party; or

(B) a hard-wired, stand-alone fire and smoke alarm in the area used for temporary overnight accommodations in addition to an exit door or window opening directly to a public way, exit court, or yard area.

(b) The use of places of religious worship that offer temporary overnight accommodations as allowed in subsection (9)(a) is not a change in occupancy, purpose, or use.

(c) A place of religious worship is not in violation of the state building code for the sole reason that the place of religious worship hosts temporary overnight visitors as allowed in subsection (9)(a).

(10) *The department shall permit buildings of group R-2 occupancy to have a single stairway serving as an exit for all units if the building meets the following conditions:*

- (a) *the building has no more than six stories above grade plane;*
- (b) *there are no more than four dwelling units on one floor;*
- (c) *the building is equipped with an automatic sprinkler system; and*
- (d) *each unit has at least one window or other emergency exit provision.*

~~(10)~~(11) As used in this section, “place of religious worship” means a building or portion of a building that is intended for the performance of religious services classified as assembly group A-3 by the International Building Code as it read on January 1, 2023.”

Approved May 5, 2025

CHAPTER NO. 369

[SB 214]

AN ACT REVISING ZONING LAWS; PROVIDING THAT THE USE OF PROPERTY MUST BE FAVORED IN CASES INVOLVING AN INTERPRETATION OF USE OR WHETHER A NONCONFORMING USE OF LAND IS ALLOWED AND THERE IS AMBIGUITY AS TO THE USE OR PRIOR USE; REMOVING THE EXCEPTION THAT HISTORIC PRESERVATION BOARDS MAY REVIEW APPLICATIONS FOR ZONING PERMITS AND VARIANCES; AMENDING SECTIONS 76-2-105, 76-2-113, 76-2-208, 76-2-210, 76-2-302, 76-2-308, AND 76-25-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-2-105, MCA, is amended to read:

“76-2-105. Continuation of prior nonconforming uses. ~~(1) Existing nonconforming uses may be continued although not in conformity with such zoning regulations. The zoning regulations must allow for the nonconforming use of land or buildings legal at the time or prior to the time that a zoning regulation or amendment to the regulation was adopted, but the board of county commissioners may provide grounds for discontinuing nonconforming uses based on changes to or abandonment of the use of the land or buildings after the adoption of a zoning regulation or amendment.~~

~~(2) Any ambiguity or uncertainty in the zoning regulations as to whether a nonconforming use is allowed or whether the use was allowed when it was commenced must be interpreted in favor of the nonconforming use.”~~

Section 2. Section 76-2-113, MCA, is amended to read:

“76-2-113. Enforcement and interpretation of zoning provisions. (1) If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if any building, structure, or land is used in violation of this part or of any resolution adopted under this part, the county, in addition to other remedies, may take any appropriate action or begin proceedings to:

~~(1)~~(a) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;

~~(2)~~(b) restrain, correct, or abate a violation;

~~(3)~~(c) prevent the occupancy of a building, structure, or land; or

~~(4)~~(d) prevent any illegal act, conduct, business, or use in or near the premises.

(2) In interpreting a use and in determining whether a use violates this part or a resolution adopted under this part, any ambiguity or uncertainty in the zoning regulations as to whether the use is in violation must be interpreted in favor of the use in question.”

Section 3. Section 76-2-208, MCA, is amended to read:

“76-2-208. Continuation of nonconforming uses. (1) Any lawful use which is made of land or buildings at the time any zoning resolution is adopted by the board of county commissioners may be continued although such use does not conform to the provisions of such resolution. *The zoning regulations must allow for the nonconforming use of land or buildings legal at the time or prior to the time that a zoning regulation or amendment to the regulation was adopted, but the board of county commissioners may provide grounds for discontinuing nonconforming uses based on changes to or abandonment of the use of the land or buildings after the adoption of a zoning regulation or amendment.*

(2) Any ambiguity or uncertainty in the zoning regulations as to whether a nonconforming use is allowed or whether the use was allowed when it was commenced must be interpreted in favor of the nonconforming use.”

Section 4. Section 76-2-210, MCA, is amended to read:

“76-2-210. Enforcement and interpretation of zoning provisions.

(1) If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used in violation of this part or of any resolution adopted under this part, the county, in addition to other remedies, may institute any appropriate action or proceedings to:

(a) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;

(b) restrain, correct, or abate a violation;

(c) prevent the occupancy of the building, structure, or land; or

(d) prevent any illegal act, conduct, business, or use in or near the premises.

(2) In interpreting a use and in determining whether a use violates this part or a resolution adopted under this part, any ambiguity or uncertainty in the zoning regulations as to whether the use is in violation must be interpreted in favor of the use in question.

(2)(3) For the purposes of enforcing subsections (1)(a) through (1)(c), the county shall attempt to obtain voluntary compliance at least 30 days before filing a complaint for a violation of this part that is subject to the penalties under 76-2-211.

(3)(4) The board of county commissioners may appoint enforcing officers to supervise and enforce the provisions of the zoning resolutions.”

Section 5. Section 76-2-302, MCA, is amended to read:

“76-2-302. Zoning districts. (1) For the purposes of 76-2-301, the local city or town council or other legislative body may divide the municipality into districts of the number, shape, and area as are considered best suited to carry out the purposes of this part. Within the districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land, including the creation of zoning districts that allow tiny dwelling units.

(2) All regulations must be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

(3) In a proceeding for a permit or variance to place manufactured housing within a residential zoning district, there is a rebuttable presumption that placement of a manufactured home will not adversely affect property values of conventional housing.

(4) As used in this section, the following definitions apply:

(a) "Manufactured housing" means a single-family dwelling, built offsite in a factory, that is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home or house trailer, as defined in 15-1-101.

(b) (i) "Tiny dwelling unit" means a residential dwelling unit that is 350 to 750 square feet, is on a permanent foundation, and is used as a single-family dwelling for at least 45 days or longer.

(ii) Appendix Q, tiny houses, of the International Building Code as it was printed on January 1, 2023, may govern all other requirements of a tiny dwelling unit that is 350 to 750 square feet.

(5) This section may not be construed to limit conditions imposed in historic districts, local design review standards, existing covenants, or the ability to enter into covenants pursuant to Title 70, chapter 17, part 2. Local design review standards imposed by a local government must be clear, objective, and necessary to protect public health or safety or to comply with federal law.

(6) Zoning regulations may not include a requirement to:

(a) pay a fee for the purpose of providing housing for specified income levels or at specified sale prices; or

(b) dedicate real property for the purpose of providing housing for specified income levels or at specified sale prices.

(7) A dedication of real property as prohibited in subsection (6)(b) includes a payment or other contribution to a local housing authority or the reservation of real property for future development of housing for specified income levels or specified sale prices.

(8) (a) ~~Except as provided in subsection (8)(b), when~~ *When* reviewing an application for a zoning permit or variance from local design review standards, the determination of compliance with local design review standards as provided in subsection (5) must be conducted by employees of the municipality, and the municipality may not require review by an external board:

(b) ~~Subsection (8)(a) does not apply to historic preservation boards reviewing an application for a permit or variance to structures or districts that the local government has designated as historic or that are listed on the national register of historic places as defined in the National Historic Preservation Act of 1966 as it read on October 1, 2023.~~

Section 6. Section 76-2-308, MCA, is amended to read:

"76-2-308. Enforcement and interpretation of zoning regulations and ordinances. (1) The city or town council or other legislative body may provide by ordinance for the enforcement of this part and of ~~any~~ *a* regulation or ordinance made ~~thereunder~~ *under the provisions of this part*.

(2) In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used in violation of this part or of any ordinance or other regulation made under authority conferred ~~hereby~~ *by this part*, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to:

(a) prevent ~~such the~~ unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;

(b) ~~to~~ restrain, correct, or abate ~~such a~~ violation; ~~to~~

(c) prevent the occupancy of ~~such the~~ building, structure, or land; or ~~to~~

(d) prevent any illegal act, conduct, business, or use in or ~~about such near~~ *the* premises.

(3) In interpreting a use and in determining whether a use violates this part or a resolution adopted under this part, any ambiguity or uncertainty in the zoning regulations as to whether the use is in violation must be interpreted in favor of the use in question.”

Section 7. Continuation of nonconforming uses. (1) The zoning regulations must allow for the nonconforming use of land or buildings legal at the time or prior to the time that a zoning regulation or amendment to the regulation is adopted, but the local government may provide grounds for discontinuing nonconforming uses based on changes to or abandonment of the use of the land or buildings after the adoption of a zoning regulation or amendment.

(2) Any ambiguity or uncertainty *in the zoning regulations* as to whether a nonconforming use is allowed or whether the use was allowed when it was commenced must be interpreted in favor of the ~~free use of property~~ *in question*.

Section 8. Section 76-25-301, MCA, is amended to read:

“76-25-301. Authority to adopt local zoning regulations. (1) (a) A local government subject to this chapter, within its respective jurisdiction, has the authority to and shall regulate the use of land in substantial compliance with its adopted land use plan by adopting zoning regulations.

(b) The governing body of a county or city has the authority to adopt zoning regulations in accordance with this part by an ordinance that substantially complies with 7-5-103 through 7-5-107.

(c) A municipality shall adopt zoning regulations for the portions of the jurisdictional area outside of the boundaries of the municipality that the governing body anticipates may be annexed into the municipality over the next 20 years. Unless otherwise agreed to by the applicable jurisdictions, zoning regulations on property outside the municipal boundaries may not apply or be enforced until those areas are annexed or are being annexed into the municipality.

(2) Local zoning regulations authorized in subsection (1) include but are not limited to ordinances prescribing the:

- (a) uses of land;
- (b) density of uses;
- (c) types of uses;
- (d) size, character, number, form, and mass of structures; and

(e) development standards mitigating the impacts of development, as identified and analyzed during the land use planning process and review and adoption of zoning regulations pursuant to this chapter.

(3) The local government shall incorporate any existing zoning regulations adopted pursuant to Title 76, chapter 2, into the zoning regulations meeting the requirements of this chapter.

(4) The local government shall adopt a zoning map for the jurisdiction in substantial compliance with the land use plan and future land use map and the zoning regulations adopted pursuant to this section, graphically illustrating the zone or zones that a property within the jurisdiction is subject to.

(5) The local government may provide for the issuance of permits as may be necessary for the implementation of this chapter.

(6) (a) The zoning regulations and map must identify areas that may necessitate the denial of a development or a specific type of development, such as unmitigable natural hazards, insufficient water supply, inadequate drainage, lack of access, inadequate public services, or the excessive expenditure of public funds for the supply of the services.

(b) The regulations must prohibit development in the areas identified in subsection (6)(a) unless the hazards or impacts may be eliminated or overcome

by approved construction techniques or other mitigation measures identified in the zoning regulations.

(c) Approved construction techniques or other mitigation measures described in subsection (6)(b) may not include building regulations as defined in 50-60-101 other than those identified by the department of labor and industry as provided in 50-60-901.

(7) The zoning regulations and map must mitigate the hazards created by development in areas located within the floodway of a flood of 100-year frequency, as defined by Title 76, chapter 5, or determined to be subject to flooding by the governing body. If the hazards cannot be mitigated, the zoning regulations and map must identify those areas where future development is limited or prohibited.

(8) (a) The zoning regulations must allow for the continued use of land or buildings legal at the time that any zoning regulation, map, or amendment ~~thereto~~ of these is adopted, but the local government may provide grounds for discontinuing nonconforming uses based on changes to or abandonment of the use of the land or buildings after the adoption of a zoning regulation, map, or amendment.

(b) *Any ambiguity or uncertainty in the zoning regulations as to whether a nonconforming use is allowed or whether the use was allowed when it was commenced must be interpreted in favor of the nonconforming use.*

(9) *In interpreting a use and in determining whether a use violates this chapter or a resolution adopted under this chapter, any ambiguity or uncertainty in the zoning regulations as to whether the use is in violation must be interpreted in favor of the use in question."*

Section 9. Codification instruction. [Section 7] is intended to be codified as an integral part of Title 76, chapter 2, part 3, and the provisions of Title 76, chapter 2, part 3, apply to [section 7].

Section 10. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 370

[SB 217]

AN ACT ESTABLISHING WORK TIME CREDIT FOR PROBATIONERS AND PAROLEES; REQUIRING THE PROBATIONER OR PAROLEE TO PROVIDE SUPPORTING DOCUMENTATION; ESTABLISHING WHEN WORK TIME CREDIT MUST BE REVOKED; PROVIDING RESTRICTIONS; AND PROVIDING DEFINITIONS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Work time credit – revocation – definitions. (1) The period of a probationer or parolee's supervision as imposed by the district court or the board may be adjusted for work time credit on the recommendation of a probation and parole officer.

(2) (a) Work time credit equals 1 day for every 40-hour workweek of eligible employment that a probationer or parolee completes while the probationer or parolee is:

(i) compliant with all the conditions imposed by the district court or the board; and

(ii) current on payments for court-ordered restitution or supervisory fees.

(b) A probationer or parolee shall provide supporting documentation to the supervising probation and parole officer within 5 business days after completing 30 days of eligible employment.

(3) (a) The supervising probation and parole officer shall verify the probationer or parolee's employment through the supporting documentation that is provided by the probationer or parolee and by any other means that the court, board, or probation and parole officer determines is necessary to verify the work, including site visits and verification by telephone.

(b) The probation and parole officer shall document any request for work time credit that is denied.

(4) Any work time credit awarded pursuant to this section must be revoked if the probationer or parolee:

(a) violates a condition imposed by the district court or the board;

(b) is charged with a new felony offense; or

(c) is charged with a new misdemeanor offense for which the probationer or parolee could be sentenced to incarceration for a period of more than 6 months.

(5) This section does not apply to an individual who is currently:

(a) subject to lifetime supervision as provided by law;

(b) required to register as sexual or violent offender pursuant to Title 46, chapter 23, part 5; or

(c) subject to a proceeding under the Youth Court Act as provided for in Title 41, chapter 5.

(6) For the purposes of this section, the following definitions apply:

(a) "Eligible employment" means any occupation or combination of occupations for which a person can provide supporting documentation verifying at least 40 wage-earning hours in a 7-day period.

(b) "Supporting documentation" means an employment record, pay stub, employment letter, contract, or other reliable means of verifying employment.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 46, chapter 23, part 10, and the provisions of Title 46, chapter 23, part 10, apply to [section 1].

Approved May 5, 2025

CHAPTER NO. 371

[SB 223]

AN ACT PROVIDING FOR THE INTEREST AND INCOME EARNED FROM WORKFORCE HOUSING APPROPRIATIONS TO BE RETAINED; AMENDING SECTION 15, CHAPTER 774, LAWS OF 2023; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15, Chapter 774, Laws of 2023, is amended to read:

"Section 15. Workforce housing appropriations – eligible uses of funds. (1) There is appropriated \$12 million from the general fund to the board of investments for the biennium beginning July 1, 2023. The purpose of the funds is to advance the construction or purchase of workforce housing of employees who work at state-owned facilities that house state inmates or behavioral health patients.

(2) Funds must be distributed to assist those who work and are living in counties that have a population of less than 15,000 inhabitants that are located within a 30-mile radius of a state-owned facility that, on an annual

average, houses at least 100 state inmates or behavioral health patients, and the state-owned facility is located in a county that has a population that does not exceed 15,000 inhabitants. The distribution must be made pro rata based on the annual average state-owned facility population for the fiscal year beginning July 1, 2021, and the number of workers residing in each eligible county.

(3) Eligible uses of the funds include:

(a) buying down construction costs on employee housing;

(b) providing matching funds required pursuant to the state workforce housing community reinvestment organization revolving loan fund;

(c) providing loans for up to 50% of the projected project cost of an eligible infrastructure project pursuant to [section 13];

(d) providing funds to discount housing costs to employees who work in state-owned facilities that house, on an annual average, at least 100 state inmates or behavioral health patients, and the state-owned facility is located in a county that has a population that does not exceed 15,000 inhabitants; or

(e) acquiring through construction or purchase housing for employees of those state-owned facilities with the intention of the housing to be privately owned within 10 years of purchase or construction unless private ownership is considered a security risk by the department of public health and human services or the department of corrections.

(4) *All interest and income earned from the funds appropriated as provided in subsection (1) must be retained in the fund.*"

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to interest and income earned on or after June 14, 2023.

Approved May 5, 2025

CHAPTER NO. 372

[SB 227]

AN ACT ELIMINATING INDIVIDUAL BOARD SEALS, STANDARDIZING DOCUMENT AUTHENTICATION, AND CLARIFYING RESPONSIBILITIES FOR PROFESSIONAL LICENSING BOARDS; ELIMINATING REDUNDANCIES IN ORGANIZATIONAL STATUTES FOR INDIVIDUAL PROFESSIONAL LICENSING BOARDS; ELIMINATING CONFLICTING PROVISIONS IN STATUTES FOR INDIVIDUAL PROFESSIONAL LICENSING BOARDS; AMENDING SECTIONS 37-3-301, 37-10-202, 37-13-201, 37-13-304, 37-15-202, 37-18-305, 37-24-202, 37-50-201, 37-51-201, 37-66-303, AND 37-68-201, MCA; AND REPEALING SECTIONS 37-3-201, 37-4-201, 37-8-201, 37-17-201, 37-28-103, 37-31-201, AND 37-67-201, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-3-301, MCA, is amended to read:

"37-3-301. License required – kinds of licenses. (1) Before being issued a license, an applicant may not engage in the practice of medicine in this state.

(2) The department may issue two kinds of licenses ~~under the board's seal,~~ a physician's license and a resident license.

(3) The board shall provide guidelines by administrative rule for the practice of telemedicine by physicians.

~~(4) A license issued by the board that has not expired prior to July 1, 2015, remains valid until renewal unless the licensee is otherwise subject to disciplinary proceedings."~~

Section 2. Section 37-10-202, MCA, is amended to read:

"37-10-202. Rulemaking power -- seal. (1) The board may adopt rules for the regulation, conduct, supervision, and procedure governing all applicants for licensure as optometrists and the practice of optometry not inconsistent with the provisions of this chapter.

~~(2) The board shall have a common seal."~~

Section 3. Section 37-13-201, MCA, is amended to read:

"37-13-201. Powers and duties. In addition to all other powers and duties conferred and imposed upon on the board by this chapter, the board ~~shall~~ *must* have and exercise the following powers and duties:

(1) to promulgate, under the applicable provisions of the Montana Administrative Procedure Act, rules ~~which~~ *that* it determines to be necessary to carry out the provisions of this chapter;

(2) to adopt a schedule of minimum educational requirements, not inconsistent with the provisions of this chapter;

(3) to prescribe forms for application for examination and license;

(4) to prepare and supervise examination of applicants for license to practice acupuncture;

(5) to obtain the services of professional examination agencies in lieu of its own preparation of the examinations;

(6) to issue, revoke, and suspend licenses as ~~hereinafter~~ *provided in this chapter*;

(7) to hold hearings, issue subpoenas, administer oaths, and take testimony and proofs concerning all matters within its jurisdiction; *and*

(8) to issue commissions to take depositions of witnesses who are sick or absent from the state; ~~and~~

~~(9) to adopt a seal, which shall be affixed to all licenses issued by the board and other official papers."~~

Section 4. Section 37-13-304, MCA, is amended to read:

"37-13-304. Issuance of certificate of license -- license fee. All applicants successfully passing the examination required by this chapter ~~shall~~ *must* be registered as licensed acupuncturists in the board register and, ~~upon~~ on the payment of a license fee prescribed by the board, ~~shall~~ *must* be issued a certificate of license in ~~such a~~ form as prescribed by the board. ~~The certificate shall bear the official seal of the board."~~

Section 5. Section 37-15-202, MCA, is amended to read:

"37-15-202. Powers and duties of board and department. (1) The board shall:

(a) administer, coordinate, and enforce the provisions of this chapter;

(b) evaluate the qualifications of each applicant for a license as issued under this chapter and supervise the examination of applicants;

(c) conduct hearings and keep records and minutes as the board considers necessary to an orderly dispatch of business;

(d) adopt rules, including but not limited to those governing ethical standards of practice or standards for telehealth under this chapter;

(e) make recommendations to the governor and other state officials regarding new and revised programs and legislation related to speech-language pathology or audiology, which could be beneficial to the citizens of the state of Montana; *and*

~~(f) cause the prosecution and enjoinder of all persons violating this chapter, by the complaints of its secretary filed with the county attorney in the county where the violation took place, and incur necessary expenses for the prosecution;~~

~~(g) adopt a seal by which the board shall authenticate its proceedings; and~~

~~(h)(f) extend compact privileges as described in 37-15-401.~~

(2) Copies of the proceedings, records, and acts of the board, signed by the presiding officer or secretary of the board and stamped with the seal, are prima facie evidence of the validity of the documents:

(3)(2) The board may make rules that are reasonable or necessary for the proper performance of its duties and for the regulation of proceedings before it.

(4)(3) The department may employ persons it considers necessary to carry out the provisions of this chapter.

~~(5) The department shall prepare a report to the governor as required by law."~~

Section 6. Section 37-18-305, MCA, is amended to read:

"37-18-305. License – issuance and contents. (1) The board shall, at the conclusion of a regular examination or after investigation, if in its judgment the applicant is qualified, authorize the department to issue a license to practice veterinary medicine.

(2) ~~Every~~ *Each* license granted ~~must be issued under seal and~~ must be signed by the president and secretary-treasurer of the board and must state that the licensee has given satisfactory evidence of fitness as to age, character, veterinary medical education, and other matters required by law and that after full examination, the licensee has been found qualified to practice."

Section 7. Section 37-24-202, MCA, is amended to read:

"37-24-202. Powers and duties of board. (1) The board shall:

~~(a)(1) administer, coordinate, and enforce the provisions of this chapter;~~
and

~~(b)(2) adopt rules relating to professional licensure and the establishment of ethical standards of practice under this chapter; and~~

~~(c) adopt a seal by which the board shall authenticate board proceedings.~~

(2) A copy of the proceedings, records, or acts of the board, signed by the presiding officer or secretary of the board and stamped with the seal, is prima facie evidence of the validity of the document."

Section 8. Section 37-50-201, MCA, is amended to read:

"37-50-201. ~~Organization – general~~ General rulemaking power – seal – records. (1) The board shall elect annually a presiding officer and a secretary from its members:

(2) The board may adopt rules for the conduct of its affairs and the administration of this chapter.

(3) ~~The board must have a seal that must be judicially noticed.~~

(4) The department shall keep records of the board's proceedings. In a proceeding in court, civil or criminal, arising out of or founded on this chapter, copies of these records certified as correct under the seal of the board are admissible in evidence as tending to prove the content of these records."

Section 9. Section 37-51-201, MCA, is amended to read:

"37-51-201. Presiding officer – seal – records – prohibition Prohibition on membership in real estate associations. (1) The members of the board shall elect a presiding officer from among their number:

(2) The board shall adopt a seal of a design that it prescribes. Copies of records and papers kept by the department, certified by the presiding officer, and authenticated by the seal of the board must be received in evidence in

courts with the same effect as the original. Records of the board are open to public inspection under rules it prescribes.

~~(3) The department:~~

~~(a) shall keep a record of proceedings, transactions, communications, and official acts of the board;~~

~~(b) is custodian of the records of the board; and~~

~~(c) shall perform other duties that the board, on the written request of two or more members of the board or at other times that the presiding officer, considers necessary.~~

~~(4) The presiding officer or an employee of the department hired to provide services to the board may not be an officer or paid employee of any real estate association or group of real estate dealers or brokers."~~

Section 10. Section 37-66-303, MCA, is amended to read:

"37-66-303. Licensing restricted to individuals -- partnerships -- local business licensing. (1) Certificates of licensing may be issued to natural persons only, but this chapter does not prevent a licensed landscape architect from performing services for a corporation, firm, partnership, or association.

(2) Each partner in a partnership of landscape architects must be licensed to practice landscape architecture. Subject to this requirement, a partnership of landscape architects may use a partnership name if the name consists of:

(a) the names of two or more landscape architects; or

(b) the names of one or more landscape architects and one or more professional engineers, architects, or planners.

(3) A person applying to the licensing official of any county or city for a business license to practice landscape architecture shall, at the time of application, exhibit to the licensing official satisfactory evidence ~~under the seal of the board and the hand of its secretary~~ that the applicant possesses a current registration with the board. The license may not be granted until the evidence is presented."

Section 11. Section 37-68-201, MCA, is amended to read:

~~"37-68-201. Organization -- meetings -- rulemaking~~ *Rulemaking power -- seal.* (1) ~~Each July, the board shall elect from its membership a president, vice president, and secretary-treasurer.~~

~~(2)(1) The board shall meet quarterly and at other times that the board considers necessary.~~

~~(3)(2) The board shall:~~

~~(a) adopt rules for the administration of this chapter, for the licensing of electrical contractors, and for the examination of master, journeyman, and residential electricians;~~

~~(b) adopt a seal;~~

~~(c) provide for the prosecution and enjoinder of persons violating this chapter."~~

Section 12. Repealer. The following sections of the Montana Code Annotated are repealed:

37-3-201. Organization.

37-4-201. Official seal -- organization -- subpoena power -- screening panel.

37-8-201. Seal -- board records public -- legal counsel.

37-17-201. Meetings -- expenses of members -- attorney general as board attorney -- seal.

37-28-103. Board meetings -- procedure -- seal.

37-31-201. Organization -- seal.

37-67-201. Organization -- meetings -- seal.

Approved May 5, 2025

CHAPTER NO. 373

[SB 235]

AN ACT REVISING QUALIFICATIONS FOR LANDOWNER-PREFERENCE ELK LICENSES; REQUIRING OWNERSHIP OF 640 ACRES OR MORE OF CONTIGUOUS LAND TO QUALIFY FOR SPECIAL PERMITS; ELIMINATING BEING UNDER CONTRACT TO PURCHASE 640 ACRES OR MORE OF CONTIGUOUS LAND AS A QUALIFICATION FOR SPECIAL PERMITS; DEFINING "EMPLOYEE"; AMENDING SECTIONS 87-2-516 AND 87-2-705, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-2-516, MCA, is amended to read:

"87-2-516. Drawing for Class A-9 and Class B-12 antlerless elk B tag licenses – landowner preference. (1) In the event the number of valid applications for Class A-9 resident antlerless elk B tag licenses or Class B-12 nonresident antlerless elk B tag licenses for a hunting district exceeds the quota set by the department for the district, the department shall award the permits by a drawing.

(2) Subject to the limitations of subsection (4), in a hunting district where Class A-9 and Class B-12 licenses are issued, a corresponding Class A-9 or B-12 license must be issued, on application, to persons who:

(a) ~~own or have contracted to purchase~~ 640 acres or more of contiguous land, at least some of which is used by elk *as documented by the department*; or

(b) own 160 acres or more of contiguous production agricultural land on which the department documented elk game damage within the last 2 years.

(3) A landowner who is eligible to receive a Class A-9 or Class B-12 license under subsection (2) may designate an immediate family member or ~~a person employed by the landowner~~ *an employee of the landowner* to apply for the license. A corporation owning qualifying land under subsection (2) may designate one of its shareholders to apply for the Class A-9 or Class B-12 license.

(4) Subject to the management provisions provided in 87-1-321 through 87-1-325, 15% of the Class A-9 and Class B-12 licenses available each year in a hunting district must be available to landowners pursuant to subsection (2).

(5) *For the purposes of this section, "employee" means a person who is paid by a landowner to do work and who has state or federal taxes withheld from the payment for the work provided."*

Section 2. Section 87-2-705, MCA, is amended to read:

"87-2-705. Drawing for special elk permits. (1) In the event the number of valid applications for special elk permits for a hunting district exceeds the quota set by the department for the district, these permits shall be awarded by a drawing. The department shall provide for those persons making valid application for special elk permits a method of selecting first, second, and third choice hunting districts for any drawing held pursuant to this section.

(2) Subject to the limitation of subsection (4), a person who owns ~~or is contracting to purchase~~ 640 acres or more of contiguous land, at least some of which is used by elk *as documented by the department*, in a hunting district where elk permits are awarded under this section shall be issued, upon application, a permit to hunt elk in the hunting district under the terms and conditions of the permit.

(3) An applicant who receives a permit under subsection (2) may designate that the permit be issued to an immediate family member or ~~a person employed by the landowner~~ *an employee of the landowner who works full time and*

year-round as part of the active farm or ranch operation. A corporation owning qualifying land under subsection (2) may designate one of its shareholders to receive the permit.

(4) Fifteen percent of the special elk permits available each year under this section in a hunting district must be available to landowners under subsection (2).

(5) The department may promulgate the rules necessary to implement this section.”

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 374

[SB 245]

AN ACT REVISING REQUIREMENTS FOR TRAINING MATERIALS FOR SCHOOL BUS DRIVERS; DIRECTING THE OFFICE OF PUBLIC INSTRUCTION TO MAKE TRANSPORTATION INDUSTRY-SPECIFIC TRAINING MATERIALS AVAILABLE TO SCHOOL BUS DRIVERS AT NO COST; AMENDING SECTION 20-7-1316, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-7-1316, MCA, is amended to read:

“20-7-1316. Child sex trafficking prevention. (1) The office of public instruction is encouraged to undertake activities to educate Montanans about and prevent child sex trafficking. Activities may include but are not limited to:

(1)(a) reviewing best practices for preventing child sex trafficking;

(2)(b) providing access to educational resources for interested parents, teachers, child-care providers, and other community members on how to prevent child sex trafficking, on the warning signs of child sex trafficking, and on predatory behaviors;

(3)(c) coordinating educational and prevention efforts with law enforcement, the department of public health and human services, and local organizations that work to prevent child sex trafficking; and

(4)(d) supporting school districts in developing:

(a)(i) policies on child sex trafficking awareness, prevention, response, and reporting; and

(b)(ii) educational materials and curricula aimed at preventing child sex trafficking.

(2) *The office of public instruction shall make available cost-free, transportation industry-specific training materials that school bus drivers may use to complete a training course on how to recognize and identify signs of human trafficking and how to report concerns to an appropriate authority as part of any annual training requirement. The office of public instruction shall use transportation industry-specific courses from organizations that have developed resources specifically for school bus drivers and have made these materials available to the public at no cost.*”

Section 2. Effective date. [This act] is effective July 1, 2025.

Approved May 5, 2025

CHAPTER NO. 375

[SB 246]

AN ACT ESTABLISHING REPORTING REQUIREMENTS FOR FOOD PRODUCTS PROCURED BY GOVERNMENTAL BODIES; AMENDING SECTION 18-4-132, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 18-4-132, MCA, is amended to read:

“18-4-132. Application. (1) This chapter applies to:

(a) the expenditure of public funds irrespective of their source, including federal assistance money, by this state acting through a governmental body under any contract, except a contract exempted from this chapter by this section or by another statute;

(b) a procurement of supplies or services that is at no cost to the state and from which income may be derived by the vendor and to a procurement of supplies or services from which income or a more advantageous business position may be derived by the state; and

(c) the disposal of state supplies.

(2) This chapter or rules adopted pursuant to this chapter do not prevent any governmental body or political subdivision from complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement.

(3) This chapter does not apply to:

(a) either grants or contracts between the state and its political subdivisions or other governments, except as provided in part 4 4;

(b) construction contracts;

(c) expenditures of or the authorized sale or disposal of equipment purchased with money raised by student activity fees designated for use by the student associations of the university system;

(d) contracts entered into by the Montana state lottery that have an aggregate value of less than \$250,000;

(e) contracts entered into by the state compensation insurance fund to procure insurance-related services;

(f) contracts with:

(i) a registered professional engineer, surveyor, real estate appraiser, or registered architect;

(ii) a physician, dentist, pharmacist, or other medical, dental, or health care provider;

(iii) an expert witness hired for use in litigation, a hearings officer hired in rulemaking and contested case proceedings under the Montana Administrative Procedure Act, or an attorney as specified by executive order of the governor;

(iv) consulting actuaries;

(v) a private person contracted by the student associations of the university system with money raised from student activity fees designated for use by those student associations;

(vi) a private person contracted by the Montana state lottery;

(vii) a private investigator licensed by any jurisdiction;

(viii) a claims adjuster; or

(ix) a court reporter appointed as an independent contractor under 3-5-601;

(g) electrical energy purchase contracts by the university of Montana or Montana state university, as defined in 20-25-201. Any savings accrued by the university of Montana or Montana state university in the purchase or acquisition of energy must be retained by the board of regents of higher education for university allocation and expenditure.

- (h) the purchase or commission of art for a museum or public display;
- (i) contracting under 47-1-121 of the Montana Public Defender Act;
- (j) contracting under Title 90, chapter 4, part 11; or
- (k) contracting under Title 90, chapter 14, part 1.

~~(4) (a) Food products produced in Montana may be procured by either standard procurement procedures or by direct purchase. Montana-produced food products may be procured by direct purchase when:~~

~~(i) the quality of available Montana-produced food products is substantially equivalent to the quality of similar food products produced outside the state;~~

~~(ii) a vendor is able to supply Montana-produced food products in sufficient quantity; and~~

~~(iii) a bid for Montana-produced food products either does not exceed or reasonably exceeds the lowest bid or price quoted for similar food products produced outside the state. A bid reasonably exceeds the lowest bid or price quoted when, in the discretion of the person charged by law with the duty to purchase food products for a governmental body, the higher bid is reasonable and capable of being paid out of that governmental body's existing budget without any further supplemental or additional appropriation.~~

~~(b) The department shall adopt any rules necessary to administer the optional procurement exception established in this subsection (4).~~

~~(5) As used in this section, the following definitions apply:~~

~~(a) "Food" means articles normally used by humans as food or drink, including articles used for components of articles normally used by humans as food or drink.~~

~~(b) "Produced" means planted, cultivated, grown, harvested, raised, collected, processed, or manufactured."~~

Section 2. Procurement of food products – rulemaking – reporting. (1) Food products produced in the state may be procured either by standard procedures or by direct purchase. Montana-produced food products may be procured by direct purchase when:

(a) the quality of available Montana-produced food products is substantially equivalent to the quality of similar food products produced outside the state;

(b) a vendor is able to supply Montana-produced food products in sufficient quantity; and

(c) a bid for Montana-produced food products either does not exceed or reasonably exceeds the lowest bid or price quoted for similar products produced outside the state. A bid reasonably exceeds the lowest bid or price quoted when, in the discretion of the person charged by law with the duty to purchase food products for a governmental body, the higher bid is reasonable and capable of being paid out of that governmental body's existing budget without any further supplemental or additional appropriation.

(2) The department shall adopt any rules necessary to administer the optional procurement exception and reporting requirement established in this section.

(3) Except as provided in subsection (5), all contracts for the procurement of food products by a governmental body with a total contract value of \$100,000 or more that are entered into or renewed after June 30, 2025, must include a provision that requires the vendor to provide the report described in subsection (4). A vendor shall submit its report annually to the governmental body by the date prescribed by the department.

(4) For the purpose of complying with subsection (3), for the year preceding the date set by the department, a vendor shall report:

(a) the total dollar value of food products purchased by the governmental body;

(b) the total dollar value of Montana-produced food products purchased by the governmental body; and

(c) to the extent the vendor can provide this type of information, the total dollar value of Montana-produced food products purchased by the governmental body in each of the following categories:

(i) meat, including but not limited to beef, poultry, pork, fish, sheep, and goat;

(ii) produce as defined in 80-3-302;

(iii) alcoholic beverages, as defined in 16-1-106;

(iv) nonalcoholic beverages and drinks;

(v) dairy products and eggs;

(vi) pulse crops as defined in 15-6-220; and

(vii) grain as defined in 80-4-402.

(5) (a) Contracts for alcoholic beverage purchases made by the department of revenue pursuant to Title 16 are not subject to the contractual provision requirement in subsection (3).

(b) The vendors of alcoholic beverages purchased by the department of revenue pursuant to Title 16 are not subject to the reporting requirements in subsections (3) and (4).

(6) As used in this section, the following definitions apply:

(a) "Food" means articles normally used by humans as food or drink, including alcoholic and nonalcoholic beverages and articles used for components of articles normally used by humans as food or drink.

(b) "Produced" means planted, cultivated, grown, harvested, raised, collected, processed, or manufactured.

Section 3. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 18, chapter 4, part 1, and the provisions of Title 18, chapter 4, part 1, apply to [section 2].

Section 4. Effective date. [This act] is effective July 1, 2025

Approved May 5, 2025

CHAPTER NO. 376

[SB 252]

AN ACT GENERALLY REVISING LAWS RELATED TO MANUFACTURED AND FACTORY-BUILT HOUSING; REQUIRING THAT MUNICIPAL AND COUNTY ZONING REGULATIONS TREAT MANUFACTURED AND FACTORY-BUILT HOUSING THE SAME AS OTHER TYPES OF RESIDENTIAL PROPERTY; INCLUDING MANUFACTURED HOUSING AS AN ALLOWABLE COMMERCIAL PURPOSE IN STATE TRUST LAND LEASES; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 76-2-202, 76-2-302, 76-25-103, 76-25-303, AND 77-1-902, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Regulation of construction types. (1) Regulations adopted under this part may not treat manufactured housing or factory-built housing units different from any other residential units.

(2) In a proceeding for a permit or variance to place manufactured housing or factory-built housing within a residential zoning district, there is a rebuttable presumption that placement of a manufactured home or factory-built home will not adversely affect property values of conventional housing.

(3) As used in this part, “factory-built housing” means a factory-assembled structure intended for residential use that:

(a) is equipped with the necessary service connections but not made to be readily movable as a unit or units;

(b) is designed to be used with a permanent foundation; and

(c) is not certified by the United States department of housing and urban development but meets the inspection requirement of Title 50, chapter 60, part 4.

Section 2. Section 76-2-202, MCA, is amended to read:

“76-2-202. Establishment of zoning districts – regulations. (1) (a) Within the unincorporated portions of a jurisdictional area that has been established under provisions of 76-1-501 through 76-1-503 or 76-1-504 through 76-1-507 and for the purposes provided in 76-2-201, the board of county commissioners may by resolution establish zoning regulations for a part or all of the jurisdictional area or divide the county into zoning districts with zoning regulations that are considered best suited to carry out the purposes of this part. By establishing zoning regulations, the board may regulate the erection, construction, reconstruction, alteration, repair, location, or use of buildings or structures or the use of land, including the creation of zoning districts that allow tiny dwelling units.

(b) An action challenging the creation of a zoning district or adoption of zoning regulations must be commenced within 6 months after the date of the order by the board of county commissioners creating the district or adopting the regulations.

(2) (a) *Zoning regulations adopted under this part may not treat manufactured housing or factory-built housing units differently from any other residential units.*

(b) In a proceeding for a permit or variance to place manufactured housing or factory-built housing within a residential zoning district, there is a rebuttable presumption that placement of a manufactured home or factory-built home will not adversely affect property values of conventional housing.

(3) The regulations in one district may differ from those in other districts.

(4) As used in this section, the following definitions apply:

(a) *“Factory-built housing” means a factory-assembled structure intended for residential use that:*

(a) is equipped with the necessary service connections but not made to be readily movable as a unit or units;

(b) is designed to be used with a permanent foundation; and

(c) is not certified by the United States department of housing and urban development but meets the inspection requirements of Title 50, chapter 60, part 4.

(b) “Manufactured housing” means a dwelling for a single household, built offsite in a factory, that is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home or housetrailer, as defined in 15-1-101.

(b)(c) (i) “Tiny dwelling unit” means a residential dwelling unit that is 350 to 750 square feet, is on a permanent foundation, and is used as a single-family dwelling for at least 45 days or longer.

(ii) Appendix Q, tiny houses, of the International Building Code as it was printed on January 1, 2023, may govern all other requirements of a tiny dwelling unit that is 350 to 750 square feet.

(5) This section may not be construed to limit conditions imposed in historic districts, local design review standards, existing covenants, or the ability to enter into covenants pursuant to Title 70, chapter 17, part 2.”

Section 3. Section 76-2-302, MCA, is amended to read:

“76-2-302. Zoning districts. (1) For the purposes of 76-2-301, the local city or town council or other legislative body may divide the municipality into districts of the number, shape, and area as are considered best suited to carry out the purposes of this part. Within the districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land, including the creation of zoning districts that allow tiny dwelling units.

(2) All regulations must be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

(3) (a) *Zoning regulations adopted under this part may not treat manufactured housing or factory-built housing units differently from any other residential units.*

(b) *In a proceeding for a permit or variance to place manufactured housing or factory-built housing within a residential zoning district, there is a rebuttable presumption that placement of a manufactured home or factory-built home will not adversely affect property values of conventional housing.*

(4) As used in this section, the following definitions apply:

(a) *“Factory-built housing” means a factory-assembled structure intended for residential use that:*

(a) *is equipped with the necessary service connections but not made to be readily movable as a unit or units;*

(b) *is designed to be used with a permanent foundation; and*

(c) *is not certified by the United States department of housing and urban development but meets the inspection requirements of Title 50, chapter 60, part 4.*

(b) *“Manufactured housing” means a single-family dwelling, built offsite in a factory, that is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home or housetrailer, as defined in 15-1-101.*

(b)(c) (i) *“Tiny dwelling unit” means a residential dwelling unit that is 350 to 750 square feet, is on a permanent foundation, and is used as a single-family dwelling for at least 45 days or longer.*

(ii) *Appendix Q, tiny houses, of the International Building Code as it was printed on January 1, 2023, may govern all other requirements of a tiny dwelling unit that is 350 to 750 square feet.*

(5) This section may not be construed to limit conditions imposed in historic districts, local design review standards, existing covenants, or the ability to enter into covenants pursuant to Title 70, chapter 17, part 2. Local design review standards imposed by a local government must be clear, objective, and necessary to protect public health or safety or to comply with federal law.

(6) Zoning regulations may not include a requirement to:

(a) *pay a fee for the purpose of providing housing for specified income levels or at specified sale prices; or*

(b) *dedicate real property for the purpose of providing housing for specified income levels or at specified sale prices.*

(7) A dedication of real property as prohibited in subsection (6)(b) includes a payment or other contribution to a local housing authority or the reservation of real property for future development of housing for specified income levels or specified sale prices.

(8) (a) Except as provided in subsection (8)(b), when reviewing an application for a zoning permit or variance from local design review standards, the determination of compliance with local design review standards as provided in subsection (5) must be conducted by employees of the municipality, and the municipality may not require review by an external board.

(b) Subsection (8)(a) does not apply to historic preservation boards reviewing an application for a permit or variance to structures or districts that the local government has designated as historic or that are listed on the national register of historic places as defined in the National Historic Preservation Act of 1966 as it read on October 1, 2023.”

Section 4. Section 76-25-103, MCA, is amended to read:

“76-25-103. Definitions. As used in this chapter, unless the context or subject matter clearly requires otherwise, the following definitions apply:

(1) “Aggrieved party” means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

(2) “Applicant” means a person who seeks a land use permit or other approval of a development proposal.

(3) “Built environment” means man-made or modified structures that provide people with living, working, and recreational spaces.

(4) “Cash-in-lieu donation” is the amount equal to the fair market value of unsubdivided, unimproved land.

(5) “Certificate of survey” means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(6) “Dedication” means the deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

(7) “Division of land” means the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to this chapter. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.

(8) “Dwelling” means a building designed for residential living purposes, including single-unit, two-unit, and multi-unit dwellings.

(9) “Dwelling unit” means one or more rooms designed for or occupied exclusively by one household.

(10) “Examining land surveyor” means a registered land surveyor appointed by the governing body to review surveys and plats submitted for filing.

(11) “Factory-built housing” means a factory-assembled structure intended for residential use that:

(a) is equipped with the necessary service connections but not made to be readily movable as a unit or units;

(b) is designed to be used with a permanent foundation; and

(c) is not certified by the United States department of housing and urban development but meets the inspection requirements of Title 50, chapter 60, part 4.

(11)(12) "Final plat" means the final drawing of the subdivision and dedication required by this chapter to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this chapter and in regulations adopted pursuant to this chapter.

(12)(13) "Four-unit dwelling" or "fourplex" means a building designed for four attached dwelling units in which the dwelling units share a common separation, such as a ceiling or wall, and in which access cannot be gained between the units through an internal doorway, excluding common hallways.

(13)(14) "Immediate family" means a spouse, children by blood or adoption, and parents.

(14)(15) "Irrigation district" means a district established pursuant to Title 85, chapter 7.

(15)(16) "Jurisdictional area" or "jurisdiction" means the area within the boundaries of the local government. For municipalities, the term includes those areas the local government anticipates may be annexed into the municipality over the next 20 years.

(16)(17) "Land use permit" means an authorization to complete development in conformance with an application approved by the local government.

(17)(18) "Land use plan" means the land use plan and future land use map adopted in accordance with this chapter.

(18)(19) "Land use regulations" means zoning, zoning map, subdivision, or other land use regulations authorized by state law.

(19)(20) "Local governing body" or "governing body" means the elected body responsible for the administration of a local government.

(20)(21) "Local government" means a county, consolidated city-county, or an incorporated municipality to which the provisions of this chapter apply as provided in 76-25-105.

(21)(22) "Manufactured housing" means a dwelling for a single household, built offsite in a factory that is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home or housetrailer, as defined in 15-1-101.

(22)(23) "Ministerial permit" means a permit granted upon a determination that a proposed project complies with the zoning map and the established standards set forth in the zoning regulations. The determination must be based on objective standards, involving little or no personal judgment, and must be issued by the planning administrator.

(23)(24) "Multi-unit dwelling" means a building designed for five or more attached dwelling units in which the dwelling units share a common separation, such as a ceiling or wall, and in which access cannot be gained between the units through an internal doorway, excluding common hallways.

(24)(25) "Permitted use" means a use that may be approved by issuance of a ministerial permit.

(25)(26) "Planning administrator" means the person designated by the local governing body to review, analyze, provide recommendations, or make final decisions on any or all zoning, subdivision, and other development applications as required in this chapter.

(26)(27) "Plat" means a graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

(27)(28) “Preliminary plat” means a neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body.

(28)(29) “Public utility” has the meaning provided in 69-3-101, except that for the purposes of this chapter, the term includes a county water or sewer district as provided for in Title 7, chapter 13, parts 22 and 23, and municipal sewer or water systems and municipal water supply systems established by the governing body of a municipality pursuant to Title 7, chapter 13, parts 42, 43, and 44.

(29)(30) “Single-room occupancy development” means a development with dwelling units in which residents rent a private bedroom with a shared kitchen and bathroom facilities.

(30)(31) “Single-unit dwelling” means a building designed for one dwelling unit that is detached from any other dwelling unit.

(31)(32) “Subdivider” means a person who causes land to be subdivided or who proposes a subdivision of land.

(32)(33) “Subdivision” means a division of land or land so divided that it creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to the parcels may be sold or otherwise transferred and includes any resubdivision and a condominium. The term also means an area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or mobile homes will be placed.

(33)(34) “Subdivision guarantee” means a form of guarantee that is approved by the commissioner of insurance and is specifically designed to disclose the information required in 76-25-413.

(34)(35) “Tract of record” means an individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder’s office.

(35)(36) “Three-unit dwelling” or “triplex” means a building designed for three attached dwelling units in which the dwelling units share a common separation, such as a ceiling or wall, and in which access cannot be gained between the units through an internal doorway, excluding common hallways.

(36)(37) “Two-unit dwelling” or “duplex” means a building designed for two attached dwelling units in which the dwelling units share a common separation, such as a ceiling or wall, and in which access cannot be gained between the units through an internal doorway.”

Section 5. Section 76-25-303, MCA, is amended to read:

“76-25-303. Limitations on zoning authority. (1) A local government acting pursuant to this part may not:

(a) treat manufactured housing or *factory-built housing* units differently from any other residential units;

(b) include in a zoning regulation any requirement to:

(i) pay a fee for the purpose of providing housing for specified income levels or at specified sale prices; or

(ii) dedicate real property for the purpose of providing housing for specified income levels or at specified sale prices, including a payment or other contribution to a local housing authority or the reservation of real property for future development of housing for specified income levels or specified sale prices;

(c) prevent the erection of an amateur radio antenna at heights and dimensions sufficient to accommodate amateur radio service communications by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States;

(d) establish a maximum height limit for an amateur radio antenna of less than 100 feet above the ground;

(e) subject to subsection (2) and outside of incorporated municipalities, prevent the complete use, development, or recovery of any mineral, forest, or agricultural resources identified in the land use plan, except that the use, development, or recovery may be reasonably conditioned or prohibited within residential zones;

(f) except as provided in subsection (3), treat the following differently from any other residential use of property:

(i) a foster home, kinship foster home, youth shelter care facility, or youth group home operated under the provisions of 52-2-621 through 52-2-623, if the home or facility provides care on a 24-hour-a-day basis;

(ii) a community residential facility serving eight or fewer persons, if the facility provides care on a 24-hour-a-day basis; or

(iii) a family day-care home or a group day-care home registered by the department of public health and human services under Title 52, chapter 2, part 7;

(g) except as provided in subsection (3), apply any safety or sanitary regulation of the department of public health and human services or any other agency of the state or a political subdivision of the state that is not applicable to residential occupancies in general to a community residential facility serving 8 or fewer persons or to a day-care home serving 12 or fewer children; or

(h) prohibit any existing agricultural activities or force the termination of any existing agricultural activities outside the boundaries of an incorporated city, including agricultural activities that were established outside the corporate limits of a municipality and thereafter annexed into the municipality.

(2) Regulations that condition or prohibit uses pursuant to subsection (1)(e) must be in effect prior to the filing of a permit application or at the time a written request is received for a preapplication meeting pursuant to 82-4-432.

(3) Except for a day-care home registered by the department of public health and human services, a local government may impose zoning standards and conditions on any type of home or facility identified in subsections (1)(f) and (1)(g) if those zoning standards and conditions do not conflict with the requirements of subsections (1)(f) and (1)(g)."

Section 6. Section 77-1-902, MCA, is amended to read:

"77-1-902. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Cancellation" means the cessation of a lessee's possessory rights and privileges under a lease due to the lessee's breach of some term of the lease, applicable statutes, or applicable administrative rules.

(2) "Commercial lease" means a contract to use state trust land for a commercial purpose.

(3) (a) "Commercial purpose" means an industrial enterprise, retail sales outlet, business and professional office building, warehouse, motel, hotel, hospitality enterprise, commercial or concentrated recreational use, multifamily residential development, *the development of mobile home parks or multiple manufactured housing units for lease or rent*, and other similar business.

(b) The term does not include the following uses:

- (i) agriculture;
- (ii) grazing;
- (iii) exploration or development of oil and gas, minerals, and resources from geothermal, wind, or solar;
- (iv) single-family residences, home sites, and cabin sites; and
- (v) utility rights-of-way.

(4) "Land value" is the monetary value of the land determined by an appraisal by a certified general appraiser or a department staff appraiser or by a limited valuation.

(5) "Limited valuation" means estimating the land value of commercial lease land by analyzing comparable land valuations conducted within 2 years of the lease commencement date as provided by real estate appraisers, local tax assessors, local realtors, an evaluation of local market rents, or a combination of those methods.

(6) "Termination" means the automatic completion or ending of the term of a contract according to its provisions. Upon termination, the lessee ceases to have any possessory rights or privileges under a lease."

Section 7. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 76, chapter 2, part 1, and the provisions of Title 76, chapter 2, part 1, apply to [section 1].

Approved May 5, 2025

CHAPTER NO. 377

[SB 262]

AN ACT EXEMPTING THE REVIEW OF CERTAIN SUBDIVISION APPLICATIONS AND WATER OR SEWER PLANS FROM ENVIRONMENTAL REVIEW; PROVIDING AN EXEMPTION TO LOCAL GOVERNMENTS AND INDEPENDENT REVIEWERS; REVISING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 75-6-121, 76-4-104, AND 76-4-136, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Exemption from environmental review. The department is exempt from the provisions of Title 75, chapter 1, parts 1 and 2 when reviewing water or sewer system plans or specifications under this part.

Section 2. Section 75-6-121, MCA, is amended to read:

"75-6-121. Delegation of review of small public water and sewer construction. (1) If a local government requests a delegation and the appropriate division of the local government has established satisfactory review programs, the department shall delegate to the division of local government the review of:

- (a) small public water and sewer systems; and
- (b) extensions or alterations of existing public water and sewer systems.

(2) The department shall adopt rules regarding the delegation of review authority to divisions of local government.

(3) A division of local government conducting a review under this section:

(a) must receive 90% of the review fee, and the department must receive the remaining 10% of the review fee; and

(b) shall complete documents necessary to complete the review and to comply with:

(i) ~~the Montana Environmental Policy Act provided for in Title 75, chapter 1, parts 1 through 3;~~

(ii) real property takings requirements in accordance with Title 70; and
(iii)(ii) determinations of nondegradation and nonsignificance as required in Title 75, chapter 5.”

Section 3. Section 76-4-104, MCA, is amended to read:

“76-4-104. Rules for administration and enforcement. (1) The department shall, subject to the provisions of 76-4-135, adopt reasonable rules, including adoption of sanitary standards, necessary for administration and enforcement of this part.

(2) The rules and standards must provide the basis for approving subdivisions for various types of public and private water supplies, sewage disposal facilities, storm water drainage ways, and solid waste disposal. The rules and standards must be related to:

- (a) size of lots;
- (b) contour of land;
- (c) porosity of soil;
- (d) ground water level;
- (e) distance from lakes, streams, and wells;
- (f) type and construction of private water and sewage facilities; and
- (g) other factors affecting public health and the quality of water for uses relating to agriculture, industry, recreation, and wildlife.

(3) The storm drainage review requirements of this chapter do not apply to divisions or parcels of land that are exempt from review under 76-3-207(1)(a), (1)(d), (1)(e), or (1)(f) that:

- (a) are used for a single-family residential purpose; and
- (b) include no more than 25% that is impervious.

(4) (a) Except as provided in subsection (4)(b), the rules must provide for the review of subdivisions consistent with 76-4-114 by a local department or board of health, as described in Title 50, chapter 2, part 1, if the local department or board of health employs a registered sanitarian or a registered professional engineer and if the department certifies under subsection (5) that the local department or board is competent to conduct the review.

(b) (i) Except as provided in 75-6-121 and subsection (4)(b)(ii) of this section, a local department or board of health may not review public water supply systems, public sewage systems, or extensions of or connections to these systems.

(ii) A local department or board of health may be certified by the department to review subdivisions proposed to connect to existing municipal or county water and/or sewer district water and wastewater systems previously approved by the department if no extension of the systems is required.

(5) (a) The department shall also adopt standards and procedures for certification and maintaining certification to ensure that a local department, local board of health, or independent reviewer is competent to review the subdivisions as described in subsection (4).

(b) On or before December 31, 2023, the department shall develop procedures for certification of prequalified independent reviewers and develop a training curriculum to ensure compliance with this part.

(6) The department shall review those subdivisions described in subsection (4) if:

- (a) a proposed subdivision lies within more than one jurisdictional area and the respective governing bodies are in disagreement concerning approval of or conditions to be imposed on the proposed subdivision; or
- (b) the local department or board of health elects not to be certified.

(7) The rules must further provide for:

(a) providing the reviewing authority with a copy of the plat or certificate of survey subject to review under this part and other documentation showing the layout or plan of development, including:

(i) total development area; and

(ii) total number of proposed units and structures requiring facilities for water supply or sewage disposal;

(b) adequate evidence that a water supply that is sufficient in terms of quality, quantity, and dependability will be available to ensure an adequate supply of water for the type of subdivision proposed;

(c) evidence concerning the potability of the proposed water supply for the subdivision;

(d) adequate evidence that a sewage disposal facility is sufficient in terms of capacity and dependability;

(e) standards and technical procedures applicable to storm drainage plans and related designs, in order to ensure proper drainage ways, except that the rules must provide a basis for not requiring storm water review under this part for parcels 5 acres and larger on which the total impervious area does not and will not exceed 5%. Nothing in this section relieves any person of the duty to comply with the requirements of Title 75, chapter 5, or rules adopted pursuant to Title 75, chapter 5.

(f) standards and technical procedures applicable to sanitary sewer plans and designs, including soil testing and site design standards for on-lot sewage disposal systems when applicable;

(g) standards and technical procedures applicable to water systems;

(h) standards and technical procedures applicable to solid waste disposal;

(i) adequate evidence that a proposed drainfield mixing zone and a proposed well isolation zone are located wholly within the boundaries of the proposed subdivision where the proposed drainfield or well is located or that an easement or, for public land, other authorization has been obtained from the landowner to place the proposed drainfield mixing zone or proposed well isolation zone outside the boundaries of the proposed subdivision where the proposed drainfield or proposed well is located.

(i) A proposed drainfield mixing zone or a proposed well isolation zone for an individual water system well that is a minimum of 50 feet inside the subdivision boundary may extend outside the boundaries of the subdivision onto adjoining land that is dedicated for use as a right-of-way for roads, railroads, or utilities.

(ii) This subsection (7)(i) does not apply to the divisions provided for in 76-3-207 except those under 76-3-207(1)(b). Nothing in this section is intended to prohibit the extension, construction, or reconstruction of or other improvements to a public sewage system within a well isolation zone that extends onto land that is dedicated for use as a right-of-way for roads, railroads, or utilities.

(j) criteria for granting waivers and deviations from the standards and technical procedures adopted under subsections (7)(e) through (7)(i);

(k) evidence to establish that, if a public water supply system or a public sewage system is proposed, provision has been made for the system and, if other methods of water supply or sewage disposal are proposed, evidence that the systems will comply with state and local laws and regulations that are in effect at the time of submission of the subdivision application under this chapter. Evidence that the systems will comply with local laws and regulations must be in the form of a certification from the local health department as provided by department rule.

(l) evidence to demonstrate that appropriate easements, covenants, agreements, and management entities have been established to ensure the protection of human health and state waters and to ensure the long-term operation and maintenance of water supply, storm water drainage, and sewage disposal facilities;

(m) eligibility requirements for municipalities and county water and/or sewer districts to qualify as a certifying authority under the provisions of 76-4-127;

(n) construction details for individual and shared onsite wastewater systems to be reviewed by the local board of health at the time of septic permitting, except that the reviewing authority may require additional construction detail if the wastewater is not residential strength;

(o) simplified methods for storm water reviews, including acceptable minimum storm water volumes based solely on impervious area for proposed lots with one or two single-family residences; and

(p) a basis for exempting from review facilities previously approved under this chapter or by a local reviewing authority of the facility is not proposed to be changed, is not affected by a proposed change to another facility, and meets the design conditions of its existing approval under this chapter or by the local authority and is operating properly. Existing systems must meet the current setbacks established in rule and subsection (7)(i), unless the lot was created before the relevant effective dates for mixing zones and isolation zones.

(8) The requirements of subsection (7)(i) regarding proposed drainfield mixing zones and proposed well isolation zones apply to all subdivisions or divisions excluded from review under 76-4-125 created after October 1, 2021, except as provided in subsections (7)(i)(i) and (7)(i)(ii).

(9) The department shall:

(a) conduct a biennial review of experimental wastewater system components that have been granted a waiver or deviation as provided in subsection (7)(j);

(b) utilize relevant analysis of wastewater system components approved in other states and data from peer-reviewed third-party studies to conduct the review provided in subsection (9)(a);

(c) propose those experimental wastewater system components that meet the purposes and provisions of this part for adoption into the rules pursuant to this section; and

(d) report to the local government interim committee biennially, in accordance with 5-11-210, the number and type of experimental wastewater system components reviewed and the number and type of system components approved and provide written findings to explain why a system component was reviewed but not approved.

(10) Review and certification or denial of certification that a division of land is not subject to sanitary restrictions under this part may occur only under those rules in effect when a complete application is submitted to the reviewing authority, except that in cases in which current rules would preclude the use for which the lot was originally intended, the applicable requirements in effect at the time the lot was recorded must be applied. In the absence of specific requirements, minimum standards necessary to protect public health and water quality apply.

(11) The reviewing authority may not deny or condition a certificate of subdivision approval under this part unless it provides a written statement to the applicant detailing the circumstances of the denial or condition imposition. The statement must include:

(a) the reason for the denial or condition imposition;

(b) the evidence that justifies the denial or condition imposition; and
(c) information regarding the appeal process for the denial or condition imposition.

(12) (a) Subject to subsection (12)(b), the department may adopt rules that provide technical details and clarification regarding the water and sanitation information required to be submitted under 76-3-622.

(b) A subdivider may locate a water well anywhere on a lot, parcel, or tract of record if the subdivider maintains the minimum setback distances adopted in rule. The reviewing authority may not limit a subdivider to a single proposed well location.

(13) (a) The rules must provide for the review of subdivisions consistent with 76-4-114 by an independent reviewer if the department certifies under subsection (5) of this section that the independent reviewer is competent to conduct the review.

(b) (i) Except as provided in subsection (13)(b)(ii), an independent reviewer may not review public water supply systems, public sewage systems, or extensions of or connections to these systems.

(ii) An independent reviewer may be certified by the department to review subdivisions proposed to connect to existing municipal or county water and/or sewer district water and wastewater systems previously approved by the department if no extension of the system is required.

(c) If 110 or more new files are submitted to the department for review in any 1 month, the department shall assign applications received in that month to independent reviewers unless an independent reviewer is not available.

(d) The department shall reimburse independent reviewers at the same rate the department reimburses local departments or local boards of health certified under subsection (4).

(14) Prior to being assigned an application for review, an independent reviewer shall identify any conflict of interest related to the project under potential review. If the independent reviewer identifies a conflict of interest, the application for review must be assigned to a different independent reviewer.

(15) An independent reviewer acting under the requirements of this chapter shall comply with the provisions of Title 2, chapter 6, for public information requests.

(16) An independent reviewer conducting reviews under this section shall complete documents necessary to complete the review and to comply with:

(a) ~~the Montana Environmental Policy Act provided for in Title 75, chapter 1, parts 1 through 3; and~~

(b) ~~real property takings requirements in accordance with Title 70.~~"

Section 4. Section 76-4-136, MCA, is amended to read:

"76-4-136. Exemption from environmental review -- rulemaking.

(1) ~~Except as provided in subsection (2), the~~ *The* department is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when reviewing applications under this part for subdivisions ~~that:~~

(a) ~~are located 2 or more miles from high-quality waters, as defined in 75-5-103;~~

(b) ~~include 14 or fewer single-family residential subdivision lots;~~

(c) ~~include wastewater systems that meet nonsignificance criteria established in rule; and~~

(d) ~~demonstrate full compliance with the acquisition of necessary water rights and water availability.~~

(2) ~~The exemption provided for in subsection (1) does not apply to subdivision applications that expand or are adjacent to projects exempted from the provisions of Title 75, chapter 1, parts 1 and 2, after May 2, 2023.~~

~~(3) The department shall adopt rules to implement this section."~~

Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 75, chapter 6, and the provisions of Title 75, chapter 6, apply to [section 1].

Approved May 5, 2025

CHAPTER NO. 378

[SB 264]

AN ACT ELIMINATING A DEFENSE TO THE EXHAUST NOISE LIMITATION STATUTE; AND AMENDING SECTION 61-9-435, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-9-435, MCA, is amended to read:

"61-9-435. Exhaust noise limitation. (1) Except as provided in subsection (3) (2), a person may not operate a motor vehicle with an exhaust system that emits a noise in excess of 95 decibels, as measured by the society of automotive engineers' standard j1169 (May 1998).

~~(2) A person charged with violating this section may not be convicted if the person had reasonable grounds to believe that the vehicle was not operated in violation of the standard in subsection (1):~~

~~(3)(2) This section does not apply to a motorcycle or quadricycle that is subject to 61-9-418."~~

Approved May 5, 2025

CHAPTER NO. 379

[SB 265]

AN ACT REVISING CRYPTOCURRENCY LAWS; ESTABLISHING THE FINANCIAL FREEDOM AND INNOVATION ACT; PROHIBITING THE USE OF CENTRAL BANK DIGITAL CURRENCY BY GOVERNING AUTHORITIES; PERMITTING THE USE OF DIGITAL ASSETS AND BLOCKCHAIN PROTOCOLS; PROVIDING CERTIFICATION REQUIREMENTS FOR ISSUERS OF NETWORK TOKENS; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AND AMENDING SECTION 30-10-105, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 9] may be cited as the "Financial Freedom and Innovation Act".

Section 2. Prohibitions on use and testing of central bank digital currency. (1) A governing authority may not accept or require a payment using central bank digital currency.

(2) A governing authority may not participate in a test of central bank digital currency by the board of governors of the federal reserve system or a branch or agency of the federal government.

Section 3. Permitted uses of digital assets. A governing authority may not prohibit, restrict, or otherwise impair the ability of an individual or business to:

(1) accept digital assets as a method of payment for legal goods and services; or

(2) take custody of digital assets using a self-hosted wallet or hardware wallet.

Section 4. Access to blockchain protocols and transfer of digital assets. A business or individual in the state may:

- (1) operate a node for the purpose of connecting to a blockchain protocol and participating in the blockchain protocol's operations;
- (2) develop software on a blockchain protocol;
- (3) transfer digital assets to another business or individual utilizing a blockchain protocol; and
- (4) participate in staking on a blockchain protocol.

Section 5. Securities exemptions. (1) A business offering to provide staking as a service for individuals or to other businesses may not be considered as offering a security or investment contract pursuant to state securities laws.

(2) Nothing in [sections 1 through 9] may preclude the commissioner from instituting appropriate proceedings against a business or individual that falsely claims to be offering staking as a service.

Section 6. Certification required for listing of network tokens.

(1) (a) In order to be eligible for exemption under 30-10-105, a network token issuer seeking to offer or sell a network token in a transaction that is subject to the laws of this state shall provide the commissioner with the following:

- (i) the name, legal status, and website of the network token issuer, including the jurisdiction in which the network token issuer is organized and the date of organization;
- (ii) the address and telephone number of the network token issuer or a legal representative of the network token issuer;
- (iii) an overview of the material aspects of the network to which the network token relates, including how the network token will function to provide access to services;
- (iv) a description of the plan of distribution of any unit of a network token that is to be offered;
- (v) the consensus mechanism of the token, if one exists;
- (vi) the governance structure of the network token, if one exists;
- (vii) a network token's current or proposed functionality;
- (viii) a description of the material risks surrounding ownership of a unit of a network token;
- (ix) a description of the material aspects of the network token issuer's business;
- (x) a description of material transactions or relationships between the network token issuer and affiliated persons;
- (xi) the date the network token began functioning; and
- (xii) other information the commissioner considers relevant to the exemption request.

(2) A network token issuer shall apply for and obtain the written approval of the commissioner prior to making an offer or a sale. The issuer shall pay a filing fee that must accompany the application. The commissioner may approve or deny the application.

(3) The network token issuer shall provide updates on all information provided under subsection (1) to the commissioner every 6 months, or within 30 days if the information becomes inaccurate in a material respect.

Section 7. Transition from foreign entity to Montana entity for network token issuers. A foreign corporation that has previously issued network tokens may be granted an exemption under 30-10-105 if, prior to the offer or sale of tokens, the foreign corporation completes the following:

- (1) registers with the secretary of state as provided in 35-2-820 through 35-2-830;
- (2) meets all obligations under [section 6];

(3) provides the commissioner with all relevant governing documents related to incorporation in the foreign corporation's country;

(4) provides proof that the foreign corporation is not under investigation for securities fraud or has not been convicted of securities fraud in any other jurisdiction; and

(5) provides other information the commissioner considers relevant to the exemption request.

Section 8. Sales limit on network tokens. (1) In order for a network token issuer to receive an exemption under 30-10-105, the aggregate of network tokens that may be sold by a network token issuer to accredited or nonaccredited investors in a 12-month period may not exceed \$250 million as the amount is adjusted annually by the securities and exchange commission to reflect the change in the consumer price index for all urban consumers published by the bureau of labor statistics of the U.S. department of labor. This does not include programmatic and nondiscretionary distributions of network tokens to persons for services or direct use of the network made in accordance with the rules and code of the network.

(2) The commissioner may revise the limitations in subsection (1) by rule when necessary or in the public interest and when consistent with the protection of investors.

Section 9. Definitions. As used in [sections 1 through 9], the following definitions apply:

(1) "Affiliate persons" means a person who owns more than 10% of a digital asset or network token from the current available supply.

(2) "Blockchain" means data that is:

(a) shared across a peer-to-peer network to create a ledger of verified transactions or information among network participants linked together using cryptography to maintain the integrity of the ledger and to execute other functions; and

(b) distributed among network participants in an automated fashion to concurrently update network participants on the state of the ledger and any other functions.

(3) "Blockchain protocol" means any executable software deployed to a blockchain, typically referred to as smart contracts, including an additional standardized set of rules that uses a previously existing blockchain as a base, which facilitates the transfer of data and electronic records and allows that data to be broadcast to nodes. The executable software is governed by a set of predefined rules that execute autonomously without human intervention. The rules may be altered by a predetermined mechanism.

(4) (a) "Central bank digital currency" means a digital currency, a digital medium of exchange, or a digital monetary unit of account issued by the United States federal reserve system or a federal agency that is made directly available to institutions or consumers by the entities, or which is processed or validated directly by the entities.

(b) The term does not include a digital asset backed by legal tender or government treasuries and issued by a private entity.

(5) "Commissioner" means the securities commissioner of the state.

(6) "Decentralized network" means, with respect to a blockchain protocol to which a network token relates, a network:

(a) where no person:

(i) has the unilateral authority, directly or indirectly, through a contract, arrangement, understanding, relationship, or otherwise, to control or materially alter the functionality or operation of the network; or

(ii) has the unilateral authority to restrict or prohibit a person who is not a digital asset issuer, related person, or an affiliated person from:

(A) using, earning, or transmitting a digital asset;

(B) deploying software that uses or integrates with the network;

(C) participating in a decentralized governance system with respect to the network; or

(D) operating a node, validator, or other form of computational infrastructure with respect to the network; and

(b) where no network token issuer or affiliated person beneficially owned, in the aggregate, 20% or more of the total amount of units of the network token that:

(i) may be created, issued, or distributed in the network; or

(ii) were freely transferrable or otherwise used or available to be used for the purposes of the network.

(7) (a) "Digital asset exchange" means a trading platform that offers or seeks to offer a market in at least three digital assets.

(b) The term does not include a company organized under the laws of this state that sells network tokens exclusively.

(8) "Digital assets" has the same meaning as provided in 70-1-108.

(9) "Functional network" means, with respect to a blockchain protocol to which a network token relates, a network that allows network participants to use a network token for:

(a) the transmission and storage of value on the network;

(b) the participation in services provided by an application running on the network; or

(c) the participation in the decentralized governance system of the network.

(10) "Governing authority" means a board, commission, department, or other agency of the state or a political subdivision in the state.

(11) "Hardware wallet" means a physical device that is not continuously connected to the internet and allows an individual to secure and transfer digital assets. The term also includes a physical device under which the owner of digital assets retains independent control over the digital assets.

(12) (a) "Network token" means a digital asset as defined in 70-1-108 that is used for facilitating, coordinating, or enabling access to decentralized computing resources, consumer internet services, or internet infrastructure services via blockchain, including permanent or temporal data storage, computation, wireless access, data capture, audio or visual media hosting, audio or visual media streaming, and network bandwidth.

(b) In order to qualify as a network token, the token must:

(i) in the case of a token that is not speculative in nature, relate to a network that is a functional network; or

(ii) in the case of a token that is speculative in nature, relate to a network that is both a functional network and a decentralized network.

(c) The purchase or sale of a network token from a digital asset exchange or from a network token issuer directly does not affect its status as a network token.

(d) The term does not include:

(i) any digital assets that constitute a note, stock, treasury stock, security future, security-based swap, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, or any put, call, straddle, option, or privilege on any security, certificate of deposit, or

group or index of securities, including any interest based on the value of these particular digital assets; or

(ii) any digital asset that, based on its terms and other characteristics, is, represents, or is functionally equivalent to an agreement, contract, or transaction that is:

(A) a contract of sale of a commodity as defined in section 1a of the Commodity Exchange Act for future delivery or an option on a contract of sale of a commodity;

(B) a securities futures product;

(C) a swap;

(D) an agreement, contract, or transaction described in section (2)(c)(2)(C)(i) or 2(c)(2)(D)(i) of the Commodity Exchange Act;

(E) a commodity option authorized under section 4c of the Commodity Exchange Act; or

(F) a leverage transaction authorized under section 19 of the Commodity Exchange Act.

(13) “Network token issuer” means an individual or corporation that produced the source code that runs and distributes a network token or creates a network token that is distributed to the public for use.

(14) “Node” means software run on a computer that does not exercise discretion over transactions initiated by the end user of the blockchain protocol and does any of the following:

(a) communicates with other devices or participants on a blockchain to maintain consensus and integrity of that blockchain;

(b) creates and validates blocks of transactions; or

(c) contains and updates a copy of a blockchain.

(15) “Self-hosted wallet” means a digital interface that is used to do both of the following:

(a) secure and transfer digital assets; and

(b) retain independent control over the secured digital assets by the owner of the digital assets.

(16) “Smart contracts” means computer programs that are hosted and executed on a blockchain network. Each smart contract consists of code specifying predetermined conditions that, when met, trigger outcomes.

(17) “Staking” means committing digital assets to a blockchain network to participate in the blockchain network’s operations by validating transactions, proposing and attesting to blocks, and securing the network.

(18) “Staking as a service” means the provision of technical staking services, including but not limited to the operation of nodes and the associated infrastructure necessary to facilitate participation in blockchain networks’ consensus mechanisms by the service provider on behalf of an individual or entity that owns the digital assets being staked.

Section 10. Section 30-10-105, MCA, is amended to read:

“30-10-105. Exempt transactions – rulemaking. Except as expressly provided in this section, 30-10-201 through 30-10-207 and 30-10-211 do not apply to the following transactions:

(1) a nonissuer isolated transaction, whether effected through a broker-dealer or not. A transaction is presumed to be isolated if it is one of not more than three transactions during the prior 12-month period.

(2) (a) a nonissuer distribution of an outstanding security by a broker-dealer registered pursuant to 30-10-201 if:

(i) quotations for the securities to be offered or sold or the securities issuable upon exercise of any warrant or right to purchase or subscribe to the securities are reported by the automated quotations system operated by

the national association of securities dealers, inc., or by any other quotation system approved by the commissioner by rule; or

(ii) the security has a fixed maturity or a fixed interest or dividend provision and there has not been a default during the current fiscal year or within the 3 preceding fiscal years or if the issuer and any predecessors have been in existence for less than 3 years and there has not been a default in the payment of principal, interest, or dividends on the security.

(b) The commissioner may by order deny or revoke the exemption specified in subsection (2)(a) with respect to a specific security. Upon the entry of an order, the commissioner shall promptly notify all registered broker-dealers that it has been entered and give the reasons for the order and shall notify them that within 15 days of the receipt of a written request, the matter will be set for hearing. If a hearing is not requested and is not ordered by the commissioner, the order remains in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. An order under this subsection may not operate retroactively. A person may not be considered to have violated parts 1 through 3 of this chapter by reason of any offer or sale effected after the entry of an order under this subsection if the person sustains the burden of proof that the person did not know and in the exercise of reasonable care could not have known of the order.

(3) a nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy, but the commissioner may require that the customer acknowledge upon a specified form that the sale was unsolicited and that a signed copy of each form be preserved by the broker-dealer for a specified period;

(4) a transaction between the issuer or other person on whose behalf the offering is made and an underwriter or between underwriters;

(5) a transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator in the performance of official duties;

(6) a transaction executed by a bona fide pledgee without any purpose of evading parts 1 through 3 of this chapter;

(7) an offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer or to a broker-dealer, whether the purchaser is acting for itself or in a fiduciary capacity;

(8) (a) a transaction pursuant to an offer made in this state directed by the offeror to not more than 10 persons, other than those designated in subsection (7), during any period of 12 consecutive months, if:

(i) the seller reasonably believes that all the buyers are purchasing for investment; and

(ii) a commission or other remuneration is not paid or given directly or indirectly for soliciting a prospective buyer. However, a commission may be paid to a registered broker-dealer if the securities involved are registered with the United States securities and exchange commission under the federal Securities Act of 1933, as amended.

(b) a transaction pursuant to an offer made in this state directed by the offeror to not more than 25 persons, other than those designated in subsection (7), during any period of 12 consecutive months if:

(i) the seller reasonably believes that all the buyers are purchasing for investment;

(ii) a commission or other remuneration is not paid or given directly or indirectly for soliciting a prospective buyer; however, a commission may be paid to a registered broker-dealer if the securities involved are registered with the United States securities and exchange commission under the federal Securities Act of 1933, as amended; and

(iii) the offeror applies for and obtains the written approval of the commissioner prior to making any offers in this state and pays a filing fee that must accompany the application for approval. The commissioner may deny an application.

(c) a transaction pursuant to an offer made in this state by an offeror that is used in conjunction with the exemption found in subsection (8)(a) and the offeror has applied to the commissioner to use the exemption found in subsection (8)(b) in conjunction with or in addition to the exemption in subsection (8)(a), which the commissioner may allow if:

(i) the offeror has its corporate headquarters or principal place of business in this state;

(ii) the seller reasonably believes that all the buyers are purchasing for investment;

(iii) a commission or other remuneration is not paid or given directly or indirectly for soliciting a prospective buyer; however, a commission may be paid to a registered broker-dealer if the securities involved are registered with the United States securities and exchange commission under the federal Securities Act of 1933, as amended; and

(iv) the offeror applies for and obtains the written approval of the commissioner prior to making any offers in addition to the offers made pursuant to subsection (8)(a) and pays a filing fee that must accompany the application for approval. The commissioner may deny the application.

(d) For the purpose of the exemptions provided for in this subsection (8), an offer to sell is made in this state, whether or not the offeror or any of the offerees are then present in this state, if the offer either originates from this state or is directed by the offeror to this state and received at the place to which it is directed or at any post office in this state in the case of a mailed offer.

(9) an offer or sale of a preorganization certificate or subscription if:

(a) a commission or other remuneration is not paid or given directly or indirectly for soliciting a prospective subscriber;

(b) the number of subscribers does not exceed 25; and

(c) a payment is not made by a subscriber;

(10) a transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than 90 days of their issuance, if:

(a) a commission or other remuneration, other than a standby commission, is not paid or given directly or indirectly for soliciting any security holder in this state; or

(b) the issuer first files a notice specifying the terms of the offer and the commissioner does not by order disallow either subsection (10)(a) or the notice specifying the terms of the offer;

(11) an offer, but not a sale, of a security for which registration statements have been filed under both parts 1 through 3 of this chapter and the Securities Act of 1933 if a stop, refusal, denial, suspension, or revocation order is not in effect and a public proceeding or examination looking toward an order is not pending under either law;

(12) an offer, but not a sale, of a security for which a registration statement has been filed under parts 1 through 3 of this chapter and the commissioner does not disallow the offer in writing within 10 days of the filing;

(13) the issuance of a security dividend, whether the corporation distributing the dividend is the issuer of the security or not, if nothing of value is given by security holders for the distribution other than the surrender of a right to a cash dividend when the security holder can elect to take a dividend in cash or in securities;

(14) a transaction incident to a right of conversion, a statutory or judicially approved reclassification, or a recapitalization, reorganization, quasi-reorganization, stock split, reverse stock split, merger, consolidation, or sale of assets;

(15) a transaction in compliance with rules that the commissioner may adopt to serve the purposes of 30-10-102. The commissioner may require that 30-10-201 through 30-10-207 and 30-10-211 apply to any transactional exemptions adopted by rule.

(16) the sale of a commodity investment contract traded on a commodities exchange recognized by the commissioner at the time of sale;

(17) a transaction within the exclusive jurisdiction of the commodity futures trading commission as granted under the Commodity Exchange Act;

(18) a transaction that:

(a) involves the purchase of one or more precious metals;

(b) requires, and under which the purchaser receives within 7 calendar days after payment in good funds of any portion of the purchase price, physical delivery of the quantity of the precious metals purchased. For the purposes of this subsection, physical delivery is considered to have occurred if, within the 7-day period, the quantity of precious metals, whether in specifically segregated or fungible bulk, purchased by the payment is delivered into the possession of a depository, other than the seller, that:

(i) (A) is a financial institution, meaning a bank, savings institution, or trust company organized under or supervised pursuant to the laws of the United States or of this state;

(B) is a depository the warehouse receipts of which are recognized for delivery purposes for any commodity on a contract market designated by the commodity futures trading commission; or

(C) is a storage facility licensed by the United States or any agency of the United States; and

(ii) issues, and the purchaser receives, a certificate, document of title, confirmation, or other instrument evidencing that the quantity of precious metals has been delivered to the depository and is being and will continue to be held on the purchaser's behalf, free and clear of all liens and encumbrances other than:

(A) liens of the purchaser;

(B) tax liens;

(C) liens agreed to by the purchaser; or

(D) liens of the depository for fees and expenses that previously have been disclosed to the purchaser.

(c) requires the quantity of precious metals purchased and delivered into the possession of a depository, as provided in subsection (18)(b), to be physically located within Montana at all times after the 7-day delivery period provided in subsection (18)(b), and the precious metals are in fact physically located within Montana at all times after that delivery period;

(19) a transaction involving a commodity investment contract solely between persons engaged in producing, processing, using commercially, or handling

as merchants each commodity subject to the contract or any byproduct of the commodity;

(20) an offer or sale of a security to an employee of the issuer, pursuant to an employee stock ownership plan qualified under section 401 of the Internal Revenue Code or 17 CFR 230.701;

(21) (a) an offer or sale of securities by a cooperative association organized under the provisions of Title 35, chapter 15 or 17, or under the laws of another state that are substantially the same as the provisions of Title 35, chapter 15 or 17, if the offer and sale are only to members of the cooperative association or the purchase of the securities is necessary or incidental to establishing membership in the cooperative association;

(b) a cooperative organized under the laws of another state may not take advantage of the exemption created by this subsection (21) unless, not less than 10 days before the issuance or delivery of the securities, the cooperative has furnished the commissioner with a general written description of the transaction and any other information the commissioner may require by rule or otherwise. The commissioner shall promulgate rules establishing a list of states whose laws are considered substantially the same as Title 35, chapter 15 or 17, for the purposes of this subsection (21).

(22) an offer or sale of securities in which:

(a) the offer or sale meets the following residency requirements:

(i) it is made in this state to residents of this state;

(ii) the issuer is a business entity formed under the laws of this state and registered with the Montana secretary of state;

(iii) prior to the offer or sale, the issuer has documentary evidence to establish a reasonable basis to believe the buyer is a resident of this state; and

(iv) the offer or sale meets the intrastate exemption requirements in section 3(a)(11) of the Securities Act of 1933, 15 U.S.C. 77c(a)(11), and 17 CFR 230.147;

(b) the offer or sale meets the following payment requirements:

(i) cash and other consideration received by the issuer for all securities transactions does not exceed \$1 million, less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance on this exemption;

(ii) the issuer does not accept more than \$10,000 from a buyer unless the buyer is an accredited investor under Rule 501 SEC Regulation D, 17 CFR 230.501;

(iii) the issuer reasonably believes that all buyers are purchasing for investment and not for sale in connection with a distribution of the security;

(iv) a commission or remuneration is not paid or given, directly or indirectly, for any person's participation in the offer or sale of securities for the issuer unless the person is a registered broker-dealer or agent under this chapter; and

(v) all funds received from buyers are deposited into a bank or depository institution authorized to do business in this state and used in accordance with representations made to investors;

(c) the issuer, within 10 days of any solicitation or within 15 days after the first sale of the security pursuant to this exemption, whichever occurs first, provides to the commissioner in a form prescribed by the commissioner notice that:

(i) specifies that the issuer is conducting an offering in reliance upon this exemption;

(ii) identifies the issuer;

(iii) lists all persons involved in the offer and sale of securities on behalf of the issuer;

(iv) identifies the bank or other depository institution where investor funds will be deposited; and

(v) includes payment of a filing fee;

(d) the issuer does not constitute any of the following:

(i) before or after the offer or sale, an investment company as defined in section 3 of the Investment Company Act of 1940, 15 U.S.C. 80a-3, or subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. 78m and 78o(d);

(ii) before or after the offer or sale, an investment adviser as defined in this chapter or a person who otherwise provides investment advice as a service or for a fee;

(iii) before the offer or sale, an individual who has been convicted within 10 years before the sale, or 5 years in the case of issuers, their predecessors, and affiliated issuers, of a felony or misdemeanor;

(iv) before or after the offer or sale, a person subject to a final order that bars the person from the business of securities, insurance, or banking, issued by any of the following:

(A) a state or federal securities regulator or similar entity;

(B) a state or federal banking authority or similar entity;

(C) a state insurance commission or similar entity;

(e) the offer or sale:

(i) can be used in conjunction with any other exemption under this chapter except the exemptions for institutional investors under subsection (8) and for controlling persons of the issuer. Sales toward controlling persons do not count toward the limitation in subsection (22)(b).

(ii) is not available if the issuer or any of its officers, controlling persons, or promoters is disqualified under any part of this chapter;

(f) prior to the sale, the issuer informed all purchasers that the securities have not been registered under this chapter and cannot be resold unless the securities are registered or qualify for an exemption from registration; and

(g) the offer or sale is not:

(i) an offering proposing to issue stock or other equity interest in a development stage company without a specific business plan or purpose;

(ii) an offering in which the issuer has indicated that its business is to enlarge in a merger or acquisition with an unidentified company or companies or other unidentified entities or persons; or

(iii) an offering without an allocation of proceeds to sufficiently identifiable properties or objectives;:

(23) a transaction by a network token issuer seeking to offer or sell a network token in a transaction pursuant to the requirements of [sections 6 and 8]; or

(24) a foreign corporation that has previously issued network tokens pursuant to the requirements of [sections 7 and 8]."

Section 11. Codification instruction. [Sections 1 through 9] are intended to be codified as an integral part of Title 30, and the provisions of Title 30 apply to [sections 1 through 9].

Approved May 5, 2025

CHAPTER NO. 380

[SB 271]

AN ACT GENERALLY REVISING LAWS REGARDING STUDENT-ATHLETE RIGHTS AND PROTECTIONS; ELIMINATING THE PROHIBITION ON A POSTSECONDARY INSTITUTION OR ATHLETIC ASSOCIATION,

CONFERENCE, OR ORGANIZATION WITH AUTHORITY OVER INTERCOLLEGIATE SPORTS FROM PROVIDING A PROSPECTIVE OR CURRENT STUDENT-ATHLETE COMPENSATION FOR USE OF THE STUDENT-ATHLETE'S NAME, IMAGE, OR LIKENESS; AMENDING SECTION 20-1-232, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-1-232, MCA, is amended to read:

"20-1-232. Student-athlete rights and protections – definitions.

(1) As used in this section, the following definitions apply:

(a) "Postsecondary institution" means a 2-year or 4-year public or private college or university located in the state.

(b) (i) "Student-athlete rights" means the rights of a student-athlete enrolled in a postsecondary institution to earn compensation for the use of the student-athlete's name, image, or likeness and to contract with and retain professional representation of an athlete agent.

(ii) The term does not include a right to receive compensation from a postsecondary institution.

(2) Except as provided in subsections (3) through (6) (5), a postsecondary institution or an athletic association, conference, or organization with authority over intercollegiate sports may not:

(a) prohibit, prevent, or restrict a student-athlete from exercising the student-athlete's rights;

(b) penalize or retaliate against a student-athlete for exercising the student-athlete's rights;

(c) prohibit a student-athlete from participating in an intercollegiate sport for exercising the student-athlete's rights; or

(d) subject to subsection (5)(a) (4)(a), impose an eligibility requirement on a scholarship or grant that requires a student-athlete to refrain from exercising the student-athlete's rights.

(3) (a) A student-athlete may not enter into a contract that provides compensation to the student-athlete for the use of the student-athlete's name, image, or likeness if terms of the contract conflict with the student-athlete's team rules or with terms of a contract entered into between the student-athlete's postsecondary institution and a third party, except the team rules or a contract entered into between the postsecondary institution and a third party may not prevent a student-athlete from earning compensation for the use of the student-athlete's name, image, or likeness when not engaged in official team activities.

(b) A student-athlete who enters into a contract that provides compensation to the student-athlete for the use of the student-athlete's name, image, or likeness shall disclose the contract to an official of the postsecondary institution if the student-athlete is a team member or, if the student-athlete is not a team member, at the time the student-athlete seeks to become a team member.

(c) If a postsecondary institution asserts that the terms of the contract conflict with the team rules or with terms of a contract entered into between the student-athlete's postsecondary institution and a third party, the unit shall disclose the specific rules or terms asserted to be in conflict to the student-athlete or to the student-athlete's professional representative or athlete agent if the student-athlete is represented.

~~(4) A postsecondary institution or an athletic association, conference, or organization with authority over intercollegiate sports may not provide~~

~~to a prospective or current student-athlete compensation for use of the student-athlete's name, image, or likeness.~~

~~(5)(4)~~ A postsecondary school may:

(a) include provisions in scholarship agreements allowing the postsecondary school to use the athlete's name, image, and likeness;

(b) prohibit the use of an athlete's name, image, and likeness on school property, at school functions, or in any advertising material distributed or placed on school property;

(c) serve as an agent for the athlete to manage any contract using an athlete's name, image, and likeness; or

(d) do any combination of subsections ~~(5)(a)~~ (4)(a) through ~~(5)(c)~~ (4)(c).

~~(6)(5)~~ Nothing in this section prohibits a postsecondary institution from establishing or enforcing a conduct code that is applicable to all students enrolled at the unit."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 381

[SB 276]

AN ACT GENERALLY REVISING VOTER IDENTIFICATION LAWS; REVISING IDENTIFICATION REQUIREMENTS FOR VOTING AND PROVISIONAL VOTING; REMOVING THE OPTION TO EXECUTE A DECLARATION OF REASONABLE IMPEDIMENT TO MEETING THE IDENTIFICATION REQUIREMENTS FOR PROVISIONAL BALLOTS; AMENDING SECTIONS 13-13-114, 13-13-602, AND 13-15-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-13-114, MCA, is amended to read:

"13-13-114. Voter identification and marking precinct register book before elector votes – provisional voting. (1) ~~(a) Except as provided in subsection (2), before~~ *Before* an elector is permitted to receive a ballot or vote, the elector shall present to an election judge one of the following forms of identification showing the elector's name *that is current, valid, and readable*:

(i) a Montana driver's license, Montana state identification card issued pursuant to 61-12-501, military identification card, tribal photo identification card, United States passport, ~~or Montana concealed carry permit, or student photo identification card issued by the Montana university system or a school that is a member of the national association of intercollegiate athletics; or~~

(ii) (A) a current utility bill, bank statement, paycheck, government check, or other government document that shows the elector's name and current address; and

(B) photo identification that shows the elector's name; ~~including but not limited to a school district or postsecondary education photo identification.~~

(b) An elector who provides the information listed in subsection (1)(a) may sign the precinct register and must be provided with a regular ballot to vote.

(c) If the information provided in subsection (1)(a) differs from information in the precinct register but an election judge determines that the information provided is sufficient to verify the voter's identity and eligibility to vote pursuant to 13-2-512, the elector may sign the precinct register, complete a

new registration form to correct the elector's voter registration information, and vote.

(d) An election judge shall write "registration form" beside the name of any elector submitting a form.

~~(2) If the elector is unable to present the information required by subsection (1) or if the information presented under subsection (1) is insufficient to verify the elector's identity and eligibility to vote or if the elector's name does not appear in the precinct register or appears in the register as provisionally registered and this provisional registration status cannot be resolved at the polling place, the elector may sign the precinct register and cast a provisional ballot as provided in 13-13-601.~~

(2) If the elector is unable to present the information required by subsection (1) or if the information presented under subsection (1) is insufficient to verify the elector's identity and eligibility to vote or if the elector's name does not appear in the precinct register or appears in the register as provisionally registered and this provisional registration status cannot be resolved at the polling place, the elector may sign the precinct register and cast a provisional ballot as provided in 13-13-601.

~~(3)~~(3) If the elector fails or refuses to sign the elector's name or if the elector is disabled and a fingerprint, an identifying mark, or a signature by a person authorized to sign for the elector pursuant to 13-1-116 is not provided, the elector may cast a provisional ballot as provided in 13-13-601."

Section 2. Section 13-13-602, MCA, is amended to read:

"13-13-602. Fail-safe and provisional voting by mail. (1) To ensure the election administrator has information sufficient to determine the elector's eligibility to vote, an elector voting by mail may enclose in the outer signature envelope, together with the voted ballot in the secrecy envelope:

(a) a Montana driver's license number, Montana state identification card number issued pursuant to 61-12-501, or the last four digits of the applicant's social security number;

(b) a readable copy of a military identification card, a tribal photo identification card, a United States passport, *a Montana concealed carry permit, or a student photo identification card issued by a Montana college or university the Montana university system or a school that is a member of the national association of intercollegiate athletics,* ~~or a Montana concealed carry permit;~~ or

(c) (i) any other form of readable photo identification with the ~~individual's~~ elector's name; and

(ii) a copy of a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector's name and current address.

(2) The elector's ballot must be handled as a provisional ballot under 13-15-107 if:

(a) a provisionally registered elector voting by mail does not enclose with the ballot the information described in subsection (1);

(b) the information provided under subsection (1) is invalid or insufficient to verify the elector's eligibility; or

(c) the elector's name does not appear on the precinct register."

Section 3. Section 13-15-107, MCA, is amended to read:

"13-15-107. Handling and counting provisional and challenged ballots. (1) To verify eligibility to vote, a provisionally registered individual who casts a provisional ballot has until 5 p.m. on the day after the election

to provide valid identification or eligibility information either in person, by facsimile, by electronic means, or by mail postmarked no later than the day after the election.

(2) If a legally registered individual casts a provisional ballot because the individual failed to provide sufficient identification as required pursuant to 13-13-114(1)(a):

(a) the elector has until 5 p.m. on the day after the election to provide identification information pursuant to the requirements of 13-13-114 ~~or as provided in subsection (3) of this section~~; and

(b) the election administrator shall compare the signature of the individual or the individual's agent designated pursuant to 13-1-116 on the affirmation required under 13-13-601 to the signature on the individual's voter registration form or the agent's designation form. If the signatures match, the election administrator shall handle the ballot as provided in subsection (7) (5). If the signatures do not match and the individual or the individual's agent fails to provide valid identification information by the deadline, the ballot must be rejected and handled as provided in 13-15-108.

~~(3) If a legally registered individual casts a provisional ballot but is unable provide the identification information pursuant to the requirements of 13-13-114, the elector may verify the elector's identity by:~~

~~(a) presenting a current utility bill, bank statement, paycheck, government check, or other government document that shows the elector's name and current address; and~~

~~(b) executing a declaration pursuant to subsection (4) that states that the elector has a reasonable impediment to meeting the identification requirements.~~

~~(4) The secretary of state shall prescribe the form of the declaration described in subsection (3). The form must include:~~

~~(a) a notice that the elector is subject to prosecution for false swearing under 45-7-202 for a false statement or false information on the declaration;~~

~~(b) a statement that the elector swears or affirms that the information contained in the declaration is true, that the person described in the declaration is the same person who is signing the declaration, and that the elector faces a reasonable impediment to procuring the identification required by 13-13-114;~~

~~(c) a place for an elector to indicate one of the following impediments:~~

~~(i) lack of transportation;~~

~~(ii) lack of birth certificate or other documents needed to obtain identification;~~

~~(iii) work schedule;~~

~~(iv) lost or stolen identification;~~

~~(v) disability or illness;~~

~~(vi) family responsibilities; or~~

~~(vii) photo identification has been applied for but not received;~~

~~(d) a place for the elector to sign and date the declaration;~~

~~(e) a place for the election administrator or an election judge to sign and date the declaration;~~

~~(f) a place to note the polling place at which the elector cast a provisional ballot; and~~

~~(g) a place for the election administrator or election judge to note which form of identification required by subsection (3)(a) the elector presented.~~

(5)(3) A provisional ballot must be counted if the election administrator verifies the individual's identity or eligibility pursuant to rules adopted under 13-13-603. However, if the election administrator cannot verify the individual's identity or eligibility under the rules, the individual's provisional ballot must be rejected and handled as provided in 13-15-108. If the ballot is provisional because of a challenge and the challenge was made on the grounds

that the individual is of unsound mind or serving a felony sentence in a penal institution, the individual's provisional ballot must be counted unless the challenger provides documentation by 5 p.m. on the day after the election that a court has established that the individual is of unsound mind or that the individual has been convicted and sentenced and is still serving a felony sentence in a penal institution.

(6)(4) The election administrator shall provide an individual who cast a provisional ballot but whose ballot was or was not counted with the reasons why the ballot was or was not counted.

(7)(5) A provisional ballot must be removed from its provisional envelope, grouped with other ballots in a manner that allows for the secrecy of the ballot to the greatest extent possible, and counted as any other provisional ballot if the individual's voter information is:

(a) verified before 5 p.m. on the day after the election; or

(b) postmarked by 5 p.m. on the day after election day and received and verified by 3 p.m. on the sixth day after the election.

(8)(6) Provisional ballots that are not resolved by the end of election day may not be counted until after 3 p.m. on the sixth day after the election."

Section 4. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 5. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 6. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 382

[SB 282]

AN ACT GENERALLY REVISING SEARCH AND SEIZURE LAWS RELATED TO THE ABILITY OF THE STATE AND LOCAL GOVERNMENT TO OBTAIN AND USE ELECTRONIC COMMUNICATIONS AND RELATED MATERIAL AND STORED DATA OF AN ELECTRONIC DEVICE; PROHIBITING GOVERNMENTAL ENTITIES FROM OBTAINING ELECTRONIC COMMUNICATIONS AND RELATED MATERIAL EXCEPT BY A SEARCH WARRANT; LIMITING THE ADMISSIBILITY OF STORED DATA OF AN ELECTRONIC DEVICE OBTAINED IN VIOLATION OF STATUTE; CLARIFYING TO WHOM A REQUEST ISSUED BY A GOVERNMENTAL ENTITY MAY BE DISCLOSED; AND AMENDING SECTIONS 46-5-112 AND 46-5-602, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Governmental entities may not purchase data. Except as provided in Title 46, chapter 4, part 3, or Title 46, chapter 5, part 2, pursuant to a search warrant or investigative subpoena issued by a court, a governmental entity may not purchase the following:

(1) electronic communications;

(2) contents of electronic communications;

(3) contents of a communication made through a tone-only paging device;

(4) contents of a communication from a tracking device, including an electronic or mechanical device that permits the tracking of the movement of a person or object;

(5) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds;

(6) customer proprietary network information as defined in 47 U.S.C. 222(h)(1) as of October 18, 2024, inclusive of subscriber list information as defined in 47 U.S.C. 222(h)(3) as of October 18, 2024;

(7) precise geolocation data as defined in 30-14-2802;

(8) pseudonymous data as defined in 30-14-2802; or

(9) sensitive data as defined in 30-14-2802.

Section 2. Section 46-5-112, MCA, is amended to read:

“46-5-112. Electronic data privacy – warrant required – exceptions – admissibility. (1) Except as provided in subsection (2), a government entity may not obtain the stored data of an electronic device without a search warrant issued by a court upon a finding of probable cause.

(2) A government entity may obtain the stored data of an electronic device without a search warrant:

(a) with the consent of the owner or authorized user of the electronic device;

(b) *for the electronic communications between a law enforcement officer using an undercover or fictitious identity for law enforcement purposes with the owner or authorized user of the electronic device;*

(b)(c) in accordance with judicially recognized exceptions to warrant requirements;

(c)(d) if the owner has voluntarily and publicly disclosed the stored data;

(d)(e) if the government entity, in good faith, believes that an emergency involving danger, death, or serious physical injury to a person requires immediate disclosure of communications relating to the emergency;

(e)(f) in order to respond to the user’s call for emergency services; or

(f)(g) for any electronic devices found within the confines of a correctional facility.

(3) *Any evidence obtained in violation of this section or [section 1] is not admissible in a civil, criminal, or administrative proceeding and may not be used in an affidavit of probable cause in an effort to obtain a search warrant.*

(3)(4) Nothing in 46-5-111 through 46-5-113 may be construed to limit a government entity’s ability to use, maintain, or store information on its own electronic devices or to disseminate information stored on its own electronic devices.

(4)(5) Sections 46-5-111 through 46-5-113 do not apply to motor carrier safety or hazardous materials programs implemented by the department of transportation for purposes of complying with federal motor carrier safety regulations.”

Section 3. Section 46-5-602, MCA, is amended to read:

“46-5-602. Search warrant or investigative subpoena required.

(1) A governmental entity may only require disclosure of an electronic communication stored, held, maintained, or transmitted by an electronic communication service ~~other than a subscriber record~~ *other than a subscriber record* pursuant to a search warrant or investigative subpoena issued by a court ~~upon a finding of probable cause~~ pursuant to Title 46, chapter 5, part 2, or Title 46, chapter 4, part 3.

(2) The electronic communications collected under this section must be deleted after the conclusion of the criminal investigation, postconviction and after all appeals have been exhausted, or in accordance with data retention requirements under the law.

(3) The warrant and investigative subpoena requirements of this section do not apply to the electronic communications of adults or youth currently incarcerated in a correctional facility.”

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 46, chapter 5, part 6, and the provisions of Title 46, chapter 5, part 6, apply to [section 1].

Approved May 5, 2025

CHAPTER NO. 383

[SB 286]

AN ACT CLARIFYING THE PRECEDENTIAL VALUE OF CASELAW INTERPRETING A STATUTE IN THE EVENT OF SUBSEQUENT LEGISLATIVE ACTION ON THE INTERPRETED STATUTORY PROVISIONS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Caselaw – applicability. The precedential value of a court decision interpreting a statute yields to subsequent legislative action on the interpreted statutory provisions.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 1, chapter 1, part 1, and the provisions of Title 1, chapter 1, part 1, apply to [section 1].

Approved May 5, 2025

CHAPTER NO. 384

[SB 289]

AN ACT PROVIDING FOR COUNTY NOTIFICATION BY THE DEPARTMENT OF REVENUE FOR CERTAIN PROPOSED PROPERTY TAX ADJUSTMENTS; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. County notification of proposed valuation decrease – meeting. (1) Except as provided in subsection (6), if the preliminary change in market value of any property in a county has decreased by more than \$1.5 million since the last reappraisal, the department shall send an electronic notice to the county where the property is located. The notice may be sent in an electronic format that includes more than one property on the notice. The department shall send a copy of the county notice to each municipality located within the boundaries of the county that has received the notice.

(2) The county notice must:

(a) be sent no later than when the original or revised classification and appraisal notice is sent to the property owner pursuant to 15-7-102; and

(b) provide the market value for the prior reappraisal cycle and the preliminary market value.

(3) The department shall meet with the county when requested.

(4) The department shall provide the county with any public information that was relied on by the department to establish a preliminary market value before the meeting provided for in subsection (3).

(5) For properties that are subject to central assessment, the department shall send the notice described in subsection (1) after completing the apportionment process.

(6) This section does not apply to class four residential property.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 7, part 1, and the provisions of Title 15, chapter 7, part 1, apply to [section 1].

Section 3. Applicability. [This act] applies to property tax years beginning on or after January 1, 2026.

Approved May 5, 2025

CHAPTER NO. 385

[SB 302]

AN ACT REVISING TAX APPEAL PROCEDURE LAWS; PROVIDING FOR INFORMAL REVIEW OF RESIDENTIAL PROPERTY TAX DISPUTES AT THE MONTANA TAX APPEAL BOARD; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 15-2-301, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-2-301, MCA, is amended to read:

“15-2-301. Appeal of county tax appeal board decisions – rulemaking. (1) (a) The county tax appeal board shall mail a copy of its decision to the taxpayer and to the property assessment division of the department of revenue.

(b) If the appearance provisions of 15-15-103 have been complied with, a person or the department on behalf of the state or any municipal corporation aggrieved by the action of the county tax appeal board may appeal to the Montana tax appeal board by filing with the Montana board a notice of appeal within 30 calendar days after the receipt of the decision of the county board. The notice must specify the action complained of and the reasons assigned for the complaint.

(c) Notice of acceptance of an appeal must be given to the county board by the Montana board.

(d) The Montana board shall set the appeal for hearing either in its office in the capital or at the county seat as the Montana board considers advisable to facilitate the performance of its duties or to accommodate parties in interest.

(e) The Montana board shall give to the appellant and to the respondent at least 15 calendar days' notice of the time and place of the hearing.

(2) (a) At the time of giving notice of acceptance of an appeal, the Montana board may require the county board to certify to it the minutes of the proceedings resulting in the action and all testimony taken in connection with its proceedings.

(b) The Montana board may, in its discretion, determine the appeal on the record if all parties receive a copy of the transcript and are permitted to submit additional sworn statements, or the Montana board may hear further testimony.

(c) For industrial property that is assessed annually by the department, the Montana board's review must be de novo and conducted in accordance with the contested case provisions of the Montana Administrative Procedure Act.

(d) For the purpose of expediting its work, the Montana board may refer any appeal to one of its members or to a designated hearings officer. The board member or hearings officer may exercise all the powers of the Montana board in conducting a hearing and shall, as soon as possible after the hearing, report the proceedings, together with a transcript or a tape recording of the hearing, to the Montana board. The Montana board shall determine the appeal on the record.

(3) (a) Except as provided in subsection (3)(b), the Montana tax appeal board shall consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal was conducted within 6 months of the valuation date. If the Montana board does not use the appraisal provided by the taxpayer in conducting the appeal, the Montana board shall provide to the taxpayer the reason for not using the appraisal.

(b) If the appeal is an appeal of the valuation of residential property, the Montana board shall consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and uses values obtained within the timeframe provided for in subsection (3)(a). The appraisal that is provided by the taxpayer is presumed to establish assessed value in the Montana board proceeding unless the department provides sufficient evidence to rebut the presumption of correctness, including another independent appraisal or other compelling valuation evidence. The Montana board shall address the taxpayer's independent appraisal and the department's valuation evidence in the decision.

(4) In every hearing at a county seat throughout the state, the Montana board or the member or hearings officer designated to conduct a hearing may employ a competent person to electronically record the testimony received. The cost of electronically recording testimony may be paid out of the general appropriation for the board.

(5) Except as provided in subsection (2)(c) regarding industrial property, in connection with any appeal under this section, the Montana board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision. To the extent that this section is in conflict with the Montana Administrative Procedure Act, this section supersedes that act. The Montana board may not amend or repeal any administrative rule of the department. The Montana board shall give an administrative rule full effect unless the Montana board finds a rule arbitrary, capricious, or otherwise unlawful.

(6) The decision of the Montana board is final and binding on all interested parties and not subject to a rehearing unless reversed or modified by judicial review. Proceedings for judicial review of a decision of the Montana board under this section are subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not conflict with 15-2-303.

(7) Sections 15-6-134 and 15-7-111 may not be construed to prevent the department from implementing an order to change the valuation of property.

(8) If the appeal involves class four residential property, a person satisfying the requirements in subsection (1)(b) may make an election to have the Montana board consider the appeal on an informal basis. If an informal review is elected, the decision of the Montana board is final and binding on all parties, including the department, and is not subject to reconsideration or an appeal to district court by the taxpayer or the department. The Montana board shall adopt rules outlining informal review procedures pursuant to this subsection."

Section 2. Applicability. [This act] applies to Montana tax appeal board proceedings filed on or after [the effective date of this act].

Approved May 5, 2025

CHAPTER NO. 386

[SB 330]

AN ACT CREATING THE MONTANA BLOCKCHAIN AND DIGITAL INNOVATION TASK FORCE; PROVIDING MEMBERSHIP REQUIREMENTS AND DUTIES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Montana blockchain and digital innovation task force – membership – duties – reporting. (1) There is a Montana blockchain and digital innovation task force administered by the department of administration.

(2) The task force consists of:

(a) the attorney general or the attorney general's designee;

(b) the state auditor or the state auditor's designee;

(c) seven members appointed by the president of the senate, except as provided in subsection (2)(c)(i), including:

(i) three members of the senate, with one member appointed by the minority leader of the senate;

(ii) two members who have experience in:

(A) blockchain;

(B) cryptocurrency;

(C) financial technology; or

(D) digital innovation technology; and

(iii) two additional members, one of whom is a representative of a business trade association;

(d) seven members appointed by the speaker of the house, except as provided in subsection (2)(d)(i), including:

(i) three members of the house of representatives, with one member appointed by the minority leader of the house;

(ii) two members who have experience in:

(A) blockchain;

(B) cryptocurrency;

(C) financial technology; or

(D) digital innovation technology; and

(iii) two additional members, one of whom is a broker-dealer regulated under Title 30, chapter 10; and

(e) five members appointed by the governor, including:

(i) two members with experience in:

(A) blockchain;

(B) cryptocurrency;

(C) financial technology; or

(D) digital innovation technology; and

(ii) three additional members, one of whom is from a financial service institution regulated under Title 32, chapter 1.

(3) The president of the senate and the speaker of the house shall each select one legislator appointed pursuant to subsections (2)(c)(i) and (2)(d)(i) to serve as cochairpersons of the task force.

(4) Members must be appointed within 30 days after [the effective date of this act]. All member terms occur from the time of appointment until December 31, 2026. If a vacancy occurs in the membership of the task force, the member must be replaced in the same manner in which the original appointment was made.

(5) (a) Except as provided in subsection (5)(b), members may not receive reimbursement for salary or expenses.

(b) Legislative members of the panel must be compensated and receive travel expenses as provided for in 2-15-124 for each day in attendance at task force meetings or in the performance of any duty or service as a task force member.

(6) (a) A majority of the members of the task force constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(7) The task force shall:

(a) develop knowledge and expertise regarding issues pertaining to blockchain, financial technology, and digital innovation technology; and

(b) develop and introduce recommendations regarding policy pertaining to:

(i) the promotion in the state of the adoption of blockchain, financial technology, and digital innovation;

(ii) the development of nonfinancial incentives for industries in the state related to blockchain, financial technology, and digital innovation;

(iii) the promotion of partnerships with existing financial institutions and regulated financial service entities with respect to blockchain, financial technology, and digital innovation; and

(iv) the regulation in the state of blockchain, financial technology, and digital innovation.

(8) The task force shall report its findings and recommendations to the economic affairs interim committee and the legislative council by July 1, 2026.

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Termination. [Section 1] terminates December 31, 2026.

Approved May 5, 2025

CHAPTER NO. 387

[SB 342]

AN ACT PROVIDING THAT THE CHIEF JUSTICE OF THE SUPREME COURT APPOINTS AND DIRECTS THE COURT ADMINISTRATOR; AMENDING SECTIONS 3-1-130, 3-1-701, AND 3-1-702, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-1-130, MCA, is amended to read:

“3-1-130. Supreme court – adoption of judicial branch personnel plan. (1) The supreme court shall adopt a plan of personnel administration for employees of the judicial branch, other than justices, judges, the supreme court administrator, the librarian of the state law library, and the clerk of the supreme court. The plan must include but *may* not be limited to classification and pay, recruitment and selection, performance appraisal, training, and promotion.

(2) The court administrator appointed under 3-1-701 shall, under the direction of the ~~supreme court~~ *chief justice*, administer the judicial branch personnel plan adopted under this section.”

Section 2. Section 3-1-701, MCA, is amended to read:

“3-1-701. Office of court administrator – appointment and term of office. There is established the office of court administrator. The ~~supreme~~

~~court chief justice~~ shall appoint a court administrator. The court administrator holds the position at the pleasure of the ~~court chief justice~~.”

Section 3. Section 3-1-702, MCA, is amended to read:

“3-1-702. Duties. The court administrator is the administrative officer of the court. Under the direction of the ~~supreme court chief justice~~, the court administrator shall:

(1) prepare and present judicial budget requests to the legislature, including the costs of the state-funded district court program;

(2) collect, compile, and report statistical and other data relating to the business transacted by the courts and provide the information to the legislature on request and, if requested, in accordance with 5-11-210;

(3) to the extent possible, provide that current and future information technology applications are coordinated and compatible with the standards and goals of the executive branch as expressed in the state strategic information technology plan provided for in 2-17-521;

(4) recommend to the supreme court improvements in the judiciary;

(5) administer legal assistance for indigent victims of domestic violence, as provided in 3-2-714;

(6) administer state funding for district courts, as provided in chapter 5, part 9;

(7) administer the pretrial program provided for in 3-1-708;

(8) administer the treatment court support account provided for in 46-1-1115; and

(9) administer the judicial branch personnel plan.”

Section 4. Effective date. [This act] is effective on passage and approval.

Section 5. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to court administrators appointed on or before [the effective date of this act].

Approved May 5, 2025

CHAPTER NO. 388

[SB 344]

AN ACT REVISING THE PROCESS FOR WHAT CONSTITUTES DELIVERY AND RECEIPT OF A VETOED BILL AND THE GOVERNOR'S MESSAGE WHEN THE LEGISLATURE IS IN SESSION; AMENDING SECTION 5-4-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-4-306, MCA, is amended to read:

“5-4-306. Return when legislature not in session. (1) (a) If, on the day the governor desires to return a bill without approval and with objections to the bill to the house in which it originated, that house has adjourned for the day, but not for the session, the governor may deliver the bill with the message to the ~~presiding officer, secretary, clerk, or any member of that house.~~ The delivery is as effectual as though returned in open session if the governor, on the first day the house is again in session, by message, notifies it of the delivery and of the time when and the person to whom the delivery was made ~~either the chief clerk of the house or the secretary of the senate.~~

(b) *Delivery is effectual if the originating house has adjourned for the day, but not for the session, or if either house is in session when the chief clerk of the*

house or the secretary of the senate physically receives the bill with the message and a receipt attached to the bill and the message is time-stamped and dated as being received.

(2) If the legislature is not in session when the governor vetoes a bill, the governor shall return the bill with the reasons for the veto to the secretary of state. If the bill was not approved by two-thirds of the members voting on the final vote on the bill, the secretary of state shall within 5 working days of receipt of the bill and veto message mail a copy of the title of the bill and the veto message to each member of the legislature. If the bill was approved by two-thirds of the members voting on the final vote on the bill, the secretary of state shall poll the members of the legislature. The secretary of state shall within 5 working days of receipt of the bill and veto message send by certified mail to each legislator, at an address provided by the legislator, a copy of the bill and the veto message, a ballot, a return envelope, instructions for casting a vote, and notice of the date by which each legislator shall return a vote. The date for return must be within 30 days after the date on which the bill, veto message, and voting instructions are sent. A legislator may cast and return a vote by delivering the ballot and return envelope in person or by mailing the ballot in the return envelope by regular mail, postage paid, or by sending the ballot by facsimile transmission to the office of the secretary of state. A legislator may not change the legislator's vote after the ballot is received by the secretary of state. The secretary of state shall tally the votes within 1 working day after the date for return of the votes. If two-thirds or more of the members of each house vote to override the veto, the bill becomes law.

(3) The legislature may reconvene to reconsider any bill vetoed by the governor when the legislature is not in session by using the statutory procedure provided for convening in special session."

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to all legislation passed and approved and returned to the originating house with the governor's veto message on or after the commencement of the 69th legislative session.

Approved May 6, 2025

CHAPTER NO. 389

[SB 355]

AN ACT GENERALLY REVISING ELECTRIC UTILITY LAWS; ALLOWING FOR A COMPETITIVE BIDDING PROCESS FOR THE CONSTRUCTION OF NEW ELECTRIC TRANSMISSION LINE PROJECTS; REVISING DEFINITIONS; AND AMENDING SECTIONS 69-5-201 AND 69-5-202, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 69-5-201, MCA, is amended to read:

"69-5-201. Definitions. As used in this part, the following definitions apply:

(1) (a) "Electric transmission line" means a line, *substation, or associated equipment* used to convey electrical energy connected to transmission facilities that is energized at 115 kilovolts or more phase to phase.

(b) The term does not include an electric transmission line used solely to connect an energy generation facility to transmission facilities owned by an incumbent electric utility.

(2) “Federally registered planning authority” means a regional transmission organization responsible for moving electricity, planning for the movement of electricity, or both over large interstate areas registered with the federal energy regulatory commission.

(3) (a) “Incumbent electric utility” means ~~a public utility regulated by the public service commission pursuant to Title 69, chapter 3, or~~ a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18, or their successors or assignees, that owned, controlled, or operated transmission facilities on or before January 1, 2017.

(b) *The term does not include a public utility regulated by the public service commission pursuant to Title 69, chapter 3.*

(4) “Transmission facilities” means facilities that are used to provide transmission services and are owned, controlled, or operated by an incumbent electric utility.”

Section 2. Section 69-5-202, MCA, is amended to read:

“69-5-202. ~~Right of first refusal~~ Incumbent electric utility transmission line rights. (1) (a) Except as provided in subsection (1)(b), an incumbent electric utility has the right to construct *through a competitive bidding process*, own, and maintain an electric transmission line on or after January 1, 2017:

(i) located in an area included in the midwest reliability organization;
(ii) approved for construction by a federally registered planning authority;
and

(iii) planned to interconnect with an incumbent electric utility’s transmission facilities.

(b) An incumbent electric utility may waive its right to construct, *in accordance with subsection (3)(a)*, own, and maintain an electric transmission line by providing notice to the federally registered planning authority.

(2) If an incumbent electric utility intends to construct, own, and maintain an electric transmission line in accordance with subsection (1)(a), the incumbent electric utility shall provide notice to the federally registered planning authority *as designated within the authority’s established open-access transmission tariff timelines of its intent within 120 days after the federally registered planning authority’s approval of the project.*

(3) (a) *A competitive bidding process must be conducted by the incumbent electric utility for the construction of a new electric transmission line project that has a valuation of \$8 million or more. The incumbent electric utility may participate in the bidding process as the incumbent electric utility, including affiliates, successors, and assignees.*

(b) *The bidding process must adhere to the incumbent electric utility’s reasonable timelines, specifications, and standards for design, construction, and materials.*

(c) *If the incumbent electric utility awards a bid to an entity that is not the incumbent electric utility, the incumbent electric utility may perform inspections throughout the construction period to ensure adherence to its timelines, specifications, and standards.*

(d) *On completion of construction of an electric transmission line, the incumbent electric utility has the right to own and shall assume maintenance responsibility of the electric transmission line.*

~~(3)~~(4) If an electric transmission line constructed, owned, and maintained in accordance with subsection (1)(a) is connected between two separate incumbent electric utilities, the electric transmission line must be shared equally between the incumbent utilities, unless the incumbent utilities agree to different terms and conditions.

(4)(5) Nothing in this section may be construed to limit, alter, or modify the authority of the commission to make findings relative to 69-3-109 and 69-3-201 as they relate to transmission facilities or to regulate utilities subject to Title 69, chapter 3.”

Approved May 5, 2025

CHAPTER NO. 390

[SB 360]

AN ACT REVISING ELECTION LAWS; PROVIDING AND REVISING DEFINITIONS; AMENDING SECTIONS 2-2-121, 13-1-101, 13-13-241, 13-37-219, 13-37-226, AND 13-37-234, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-2-121, MCA, is amended to read:

“2-2-121. Rules of conduct for public officers and public employees.

(1) Proof of commission of any act enumerated in subsection (2) is proof that the actor has breached a public duty.

(2) A public officer or a public employee may not:

(a) subject to subsection (6), use public time, facilities, equipment, state letterhead, supplies, personnel, or funds for the officer’s or employee’s private business purposes;

(b) engage in a substantial financial transaction for the officer’s or employee’s private business purposes with a person whom the officer or employee inspects or supervises in the course of official duties;

(c) assist any person for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from the officer’s or employee’s agency;

(d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic benefit from any agency;

(e) perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which the officer or employee either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent; or

(f) solicit or accept employment, or engage in negotiations or meetings to consider employment, with a person whom the officer or employee regulates in the course of official duties without first giving written notification to the officer’s or employee’s supervisor and department director.

(3) (a) A candidate, as defined in ~~13-1-101(8)~~(a) 13-1-101(10)(a), may not use or permit the use of state funds for any advertisement or public service announcement in a newspaper, on radio, or on television that contains the candidate’s name, picture, or voice except in the case of a state or national emergency and then only if the announcement is reasonably necessary to the candidate’s official functions.

(b) A state officer may not use or permit the use of public time, facilities, equipment, state letterhead, supplies, personnel, or funds to produce, print, or broadcast any advertisement or public service announcement in a newspaper, on radio, or on television that contains the state officer’s name, picture, or voice except in the case of a state or national emergency if the announcement is reasonably necessary to the state officer’s official functions or in the case of an announcement directly related to a program or activity under the jurisdiction of the office or position to which the state officer was elected or appointed.

(4) A public officer or public employee may not participate in a proceeding when an organization, other than an organization or association of local government officials, of which the public officer or public employee is an officer or director is:

(a) involved in a proceeding before the employing agency that is within the scope of the public officer's or public employee's job duties; or

(b) attempting to influence a local, state, or federal proceeding in which the public officer or public employee represents the state or local government.

(5) A public officer or public employee may not engage in any activity, including lobbying, as defined in 5-7-102, on behalf of an organization, other than an organization or association of local government officials, of which the public officer or public employee is a member while performing the public officer's or public employee's job duties. The provisions of this subsection do not prohibit a public officer or public employee from performing charitable fundraising activities if approved by the public officer's or public employee's supervisor or authorized by law.

(6) A listing by a public officer or a public employee in the electronic directory provided for in 30-17-101 of any product created outside of work in a public agency is not in violation of subsection (2)(a) of this section. The public officer or public employee may not make arrangements for the listing in the electronic directory during work hours.

(7) A department head or a member of a quasi-judicial or rulemaking board may perform an official act notwithstanding the provisions of subsection (2)(e) if participation is necessary to the administration of a statute and if the person complies with the disclosure procedures under 2-2-131.

(8) Subsection (2)(d) does not apply to a member of a board, commission, council, or committee unless the member is also a full-time public employee.

(9) Subsections (2)(b) and (2)(e) do not prevent a member of the governing body of a local government from performing an official act when the member's participation is necessary to obtain a quorum or to otherwise enable the body to act. The member shall disclose the interest creating the appearance of impropriety prior to performing the official act."

Section 2. Section 13-1-101, MCA, is amended to read:

"13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) *"Accepted ballot" means a ballot that has been completed by an elector and the election administrator has determined that it may be counted.*

(1)(2) *"Active elector" means an elector whose name has not been placed on the inactive list due to failure to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.*

(2)(3) *"Active list" means a list of active electors maintained pursuant to 13-2-220.*

(3)(4) *"Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.*

(4)(5) *"Application for voter registration" means a voter registration form prescribed by the secretary of state that is completed and signed by an elector, is submitted to the election administrator, and contains voter registration information subject to verification as provided by law.*

(5)(6) *"Ballot" means a paper ballot counted manually or a paper ballot counted by a machine, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots.*

(6)(7) (a) *"Ballot issue" or "issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to an*

initiative, referendum, proposed constitutional amendment, recall question, school levy question, bond issue question, or ballot question.

(b) For the purposes of chapters 35 and 37, an issue becomes a “ballot issue” upon certification by the proper official that the legal procedure necessary for its qualification and placement on the ballot has been completed, except that a statewide issue becomes a “ballot issue” upon preparation and transmission by the secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

(7)(8) “Ballot issue committee” means a political committee specifically organized to support or oppose a ballot issue.

(9) *“Ballot number variance” means the difference between the number of ballots issued for both poll electors and absentee electors and the number of ballots counted.*

(8)(10) “Candidate” means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;

(b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual’s behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

(i) solicitation is made;

(ii) contribution is received and retained; or

(iii) expenditure is made; or

(c) an officeholder who is the subject of a recall election.

(11) *“Challenged ballot” means a ballot cast by an individual whose eligibility to vote has been challenged pursuant to 13-13-301.*

(9)(12) (a) “Contribution” means:

(i) the receipt by a candidate or a political committee of an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to support or oppose a candidate or a ballot issue;

(ii) an expenditure, including an in-kind expenditure, that is made in coordination with a candidate or ballot issue committee and is reportable by the candidate or ballot issue committee as a contribution;

(iii) the receipt by a political committee of funds transferred from another political committee; or

(iv) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) The term does not mean:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee;

(ii) meals and lodging provided by individuals in their private residences for a candidate or other individual;

(iii) the use of a person’s real property for a fundraising reception or other political event; or

(iv) the cost of a communication not for distribution to the general public by a religious organization exempt from federal income tax when compliance with Title 13 would burden the organization’s sincerely held religious beliefs or practices.

(c) This definition does not apply to Title 13, chapter 37, part 6.

~~(10)~~(13) “Coordinated”, including any variations of the term, means made in cooperation with, in consultation with, at the request of, or with the express prior consent of a candidate or political committee or an agent of a candidate or political committee.

~~(11)~~(14) “De minimis act” means an action, contribution, or expenditure that is so small that it does not trigger registration, reporting, disclaimer, or disclosure obligations under Title 13, chapter 35 or 37, or warrant enforcement as a campaign practices violation under Title 13, chapter 37.

~~(12)~~(15) “Disability” means a temporary or permanent mental or physical impairment such as:

(a) impaired vision;

(b) impaired hearing;

(c) impaired mobility. Individuals having impaired mobility include those who require use of a wheelchair and those who are ambulatory but are physically impaired because of age, disability, or disease.

(d) impaired mental or physical functioning that makes it difficult for the person to participate in the process of voting.

~~(13)~~(16) “Election” means a general, special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.

~~(14)~~(17) (a) “Election administrator” means, except as provided in subsection ~~(14)~~ (17)(b), the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections not administered by the county, the term means the school district clerk.

(b) As used in chapter 2 regarding voter registration, the term means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties even if the school election is administered by the school district clerk.

~~(15)~~(18) (a) “Election communication” means the following forms of communication to support or oppose a candidate or ballot issue:

(i) a paid advertisement broadcast over radio, television, cable, or satellite;

(ii) paid placement of content on the internet or other electronic communication network;

(iii) a paid advertisement published in a newspaper or periodical or on a billboard;

(iv) a mailing; or

(v) printed materials.

(b) The term does not mean:

(i) an activity or communication for the purpose of encouraging individuals to register to vote or to vote, if that activity or communication does not mention or depict a clearly identified candidate or ballot issue;

(ii) a communication that does not support or oppose a candidate or ballot issue;

(iii) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation;

(iv) a communication by any membership organization or corporation to its members, stockholders, or employees;

(v) a communication not for distribution to the general public by a religious organization exempt from federal income tax when compliance with Title 13 would burden the organization’s sincerely held religious beliefs or practices; or

(vi) a communication that the commissioner determines by rule is not an election communication.

(16)(19) "Election judge" means a person who is appointed pursuant to Title 13, chapter 4, part 1, to perform duties as specified by law.

(17)(20) "Election official" means an election administrator, election deputy, or election judge.

(18)(21) "Election worker" means an individual designated by an election official to perform election support duties.

(19)(22) (a) "Electioneering communication" means a paid communication that is publicly distributed by radio, television, cable, satellite, internet website, newspaper, periodical, billboard, mail, or any other distribution of printed materials, that is made within 60 days of the initiation of voting in an election, that does not support or oppose a candidate or ballot issue, that can be received by more than 100 recipients in the district voting on the candidate or ballot issue, and that:

(i) refers to one or more clearly identified candidates in that election;

(ii) depicts the name, image, likeness, or voice of one or more clearly identified candidates in that election; or

(iii) refers to a political party, ballot issue, or other question submitted to the voters in that election.

(b) The term does not mean:

(i) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation unless the facilities are owned or controlled by a candidate or political committee;

(ii) a communication by any membership organization or corporation to its members, stockholders, or employees;

(iii) a commercial communication that depicts a candidate's name, image, likeness, or voice only in the candidate's capacity as owner, operator, or employee of a business that existed prior to the candidacy;

(iv) a communication that constitutes a candidate debate or forum or that solely promotes a candidate debate or forum and is made by or on behalf of the person sponsoring the debate or forum;

(v) a communication not for distribution to the general public by a religious organization exempt from federal income tax when compliance with Title 13 would burden the organization's sincerely held religious beliefs or practices; or

(vi) a communication that the commissioner determines by rule is not an electioneering communication.

(20)(23) "Elector" means an individual qualified to vote under state law.

(21)(24) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value:

(i) made by a candidate or political committee to support or oppose a candidate or a ballot issue;

(ii) made by a candidate while the candidate is engaging in campaign activity to pay child-care expenses as provided in 13-37-220; or

(iii) used or intended for use in making independent expenditures or in producing electioneering communications.

(b) The term does not mean:

(i) services, food, or lodging provided in a manner that they are not considered contributions ~~under subsection (9) as defined in this section;~~

(ii) except as provided in subsection (21)(a)(ii) (24)(a)(ii), payments by a candidate for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

(iii) the cost of any bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees;

(v) the use of a person's real property for a fundraising reception or other political event; or

(vi) the cost of a communication not for distribution to the general public by a religious organization exempt from federal income tax when compliance with Title 13 would burden the organization's sincerely held religious beliefs or practices.

(c) This definition does not apply to Title 13, chapter 37, part 6.

~~(22)~~(25) "Federal election" means an election in even-numbered years in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

~~(23)~~(26) "General election" means an election that is held for offices that first appear on a primary election ballot, unless the primary is canceled as authorized by law, and that is held on a date specified in 13-1-104.

~~(24)~~(27) "Inactive elector" means an individual who failed to respond to confirmation notices and whose name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

~~(25)~~(28) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

~~(26)~~(29) (a) "Incidental committee" means a political committee that is not specifically organized or operating for the primary purpose of supporting or opposing candidates or ballot issues but that may incidentally become a political committee by receiving a contribution or making an expenditure.

(b) For the purpose of this subsection ~~(26)~~ (29), the primary purpose is determined by the commissioner by rule and includes criteria such as the allocation of budget, staff, or members' activity or the statement of purpose or goal of the person or individuals that form the committee.

~~(27)~~(30) "Independent committee" means a political committee organized for the primary purpose of receiving contributions and making expenditures that is not controlled either directly or indirectly by a candidate and that does not coordinate with a candidate in conjunction with the making of expenditures except pursuant to the limits set forth in 13-37-216(1).

~~(28)~~(31) "Independent expenditure" means an expenditure for an election communication to support or oppose a candidate or ballot issue made at any time that is not coordinated with a candidate or ballot issue committee.

~~(29)~~(32) "Individual" means a human being.

~~(30)~~(33) "Legally registered elector" means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

~~(31)~~(34) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by mailing ballots to all active electors.

~~(35)~~ "Overvote" means the number of selections made by an elector on a ballot is more than the maximum number allowed.

~~(32)~~(36) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, including a political committee, club, union, or other organization or group of individuals or a candidate as defined in ~~subsection (8) this section~~.

~~(33)~~(37) "Place of deposit" means a location designated by the election administrator pursuant to 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

~~(34)~~(38) (a) "Political committee" means a combination of two or more individuals or a person other than an individual who receives a contribution or makes an expenditure:

(i) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination;

(ii) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(iii) to prepare or disseminate an election communication, an electioneering communication, or an independent expenditure.

(b) Political committees include ballot issue committees, incidental committees, independent committees, and political party committees.

(c) A candidate and the candidate's treasurer do not constitute a political committee.

(d) A political committee is not formed when a combination of two or more individuals or a person other than an individual makes an election communication, an electioneering communication, or an independent expenditure of \$250 or less.

(e) A joint fundraising committee is not a political committee.

~~(35)~~(39) "Political party committee" means a political committee formed by a political party organization and includes all county and city central committees.

~~(36)~~(40) "Political party organization" means a political organization that:

(a) was represented on the official ballot in either of the two most recent statewide general elections; or

(b) has met the petition requirements provided in Title 13, chapter 10, part 5.

~~(37)~~(41) "Political subdivision" means a county, consolidated municipal-county government, municipality, special purpose district, or any other unit of government, except school districts, having authority to hold an election.

~~(38)~~(42) "Polling place election" means an election primarily conducted at polling places rather than by mail under the provisions of Title 13, chapter 19.

~~(39)~~(43) "Primary" or "primary election" means an election held on a date specified in 13-1-107 to nominate candidates for offices filled at a general election.

~~(40)~~(44) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not been verified as provided by law.

~~(41)~~(45) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose identity or eligibility has not yet been verified as provided by law.

~~(42)~~(46) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

~~(43)~~(47) "Random-sample audit" means an audit involving a manual count of ballots from designated races and ballot issues in precincts selected through a random process as provided in 13-17-503 and 13-17-510.

~~(44)~~(48) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

~~(49)~~ "Regular ballot" means an official ballot that has been issued to an elector.

~~(45)~~(50) "Regular school election" means the school trustee election provided for in 20-20-105(1).

~~(51)~~ "Rejected ballot" means a ballot which has been cast but cannot be counted by law.

~~(46)~~(52) "Religious organization" means a house of worship with the major purpose of supporting religious activities, including but not limited to a church, mosque, shrine, synagogue, or temple. The organic documents of the organization must list a formal code of doctrine and discipline, and the

organization must spend the majority of its money on religious activities such as regular religious services, educational preparation for its ministers, development and support of its ministers, membership development, outreach and support, and the production and distribution of religious literature developed by the organization.

(53) *“Replacement ballot” means a regular ballot issued by an election administrator or election judge to replace a regular ballot.*

(54) *“Report of the canvass” means a report that contains the information required to be entered into the record at the canvass as provided in 13-15-404 and 13-15-506.*

(47)(55) “School election” has the meaning provided in 20-1-101.

(48)(56) “School election filing officer” means the filing officer with whom the declarations for nomination for school district office were filed or with whom the school ballot issue was filed.

(49)(57) “School recount board” means the board authorized pursuant to 20-20-420 to perform recount duties in school elections.

(50)(58) “Signature envelope” means an envelope that contains a secrecy envelope and ballot and that is designed to:

(a) allow election officials, upon examination of the outside of the envelope, to determine that the ballot is being submitted by someone who is in fact a qualified elector and who has not already voted; and

(b) allow it to be used in the United States mail.

(51)(59) “Special election” means an election held on a day other than the day specified for a primary election, general election, or regular school election.

(52)(60) “Special purpose district” means an area with special boundaries created as authorized by law for a specialized and limited purpose.

(61) *“Spoiled ballot” means a ballot that has been mistakenly marked, damaged, or altered.*

(53)(62) “Statewide voter registration list” means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

(54)(63) “Support or oppose”, including any variations of the term, means:

(a) using express words, including but not limited to “vote”, “oppose”, “support”, “elect”, “defeat”, or “reject”, that call for the nomination, election, or defeat of one or more clearly identified candidates, the election or defeat of one or more political parties, or the passage or defeat of one or more ballot issues submitted to voters in an election; or

(b) otherwise referring to or depicting one or more clearly identified candidates, political parties, or ballot issues in a manner that is susceptible of no reasonable interpretation other than as a call for the nomination, election, or defeat of the candidate in an election, the election or defeat of the political party, or the passage or defeat of the ballot issue or other question submitted to the voters in an election.

(64) *“Undervote” means when the number of choices selected by an elector on a ballot is less than the maximum number allowed for that contest or when no selection is made for a single-choice contest.*

(55)(65) “Valid vote” means a vote that has been counted as valid or determined to be valid as provided in 13-15-206.

(66) *“Voided ballot” means a ballot that has been marked “void” by an election administrator.*

(56)(67) “Voted ballot” means a ballot that is:

(a) deposited in the ballot box at a polling place;

(b) received at the election administrator’s office; or

(c) returned to a place of deposit.

(57)(68) “Voter interface device” means a voting system that:

- (a) is accessible to electors with disabilities;
 - (b) communicates voting instructions and ballot information to a voter;
 - (c) allows the voter to select and vote for candidates and issues and to verify and change selections; and
 - (d) produces a paper ballot that displays electors' choices so the elector can confirm the ballot's accuracy and that may be manually counted.
- (58)(69) "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

Section 3. Section 13-13-241, MCA, is amended to read:

"13-13-241. Examination of absentee ballot signature envelopes – deposit of absentee and unvoted ballots – rulemaking. (1) (a) Upon receipt of each absentee ballot signature envelope, an election administrator shall compare the signature of the elector or elector's agent on the absentee ballot request or on the elector's voter registration form with the signature on the signature envelope.

(b) If the elector is legally registered and the signature on the signature envelope matches the signature on the absentee ballot application or on the elector's voter registration form, the election administrator or an election judge shall handle the ballot as ~~a regular ballot~~ *an accepted ballot*.

(c) (i) If the elector is provisionally registered and the signature on the signature envelope matches the signature on the absentee ballot application or on the elector's voter registration form, the election administrator or an election judge shall open the outer signature envelope and determine whether the elector's voter identification and eligibility information, if enclosed pursuant to 13-13-201, is sufficient pursuant to rules adopted under 13-2-109 to legally register the elector.

(ii) If the voter identification and eligibility information is sufficient to legally register the elector, the ballot must be handled as ~~a regular ballot~~ *an accepted ballot*.

(iii) If voter identification or eligibility information was not enclosed or the information enclosed is insufficient to legally register the elector, the ballot must be handled as a provisional ballot under 13-15-107.

(2) If a voted absentee ballot has not been placed in a secrecy envelope, the election administrator shall place the ballot in a secrecy envelope without examining the ballot.

(3) In a primary election, if unvoted party ballots are returned by a voter, they must be separated and handled pursuant to 13-1-303 and 13-12-202.

(4) If an elector's ballot is to be handled as a provisional ballot, the election administrator shall notify the absentee elector as provided in 13-13-245.

(5) If the signature on the absentee ballot signature envelope does not match the signature on the absentee ballot request form or on the elector's voter registration form or if there is no signature on the absentee ballot signature envelope, the election administrator shall notify the elector as provided in 13-13-245.

(6) If at any point there is a question concerning the validity of a particular ballot, the question must be resolved as provided in 13-13-245.

(7) (a) Except as provided in subsection (8), after receiving an absentee ballot secrecy envelope and if the validity of the ballot is confirmed pursuant to 13-13-245, then no sooner than 3 business days before election day, the election official may open the secrecy envelope and place the ballot in the proper, secured ballot box until tabulation occurs. Automatic tabulation using a vote-counting machine may not begin sooner than 1 day before election day. Tabulation using a manual count may not begin until election day.

(b) An election official may not conduct the process described in subsection (7)(a) on a Saturday or a Sunday.

(c) Ballot preparation as described in this subsection (7) is open to the public. Tabulation is open to the public as provided in 13-15-101.

(d) Access to an electronic system containing early tabulation results is limited to the election administrator and the election administrator's designee. Results may not be released except as provided in 13-35-241.

(8) For a county with fewer than 8,000 registered electors or fewer than 5,000 absentee electors at the close of regular registration, the ballot preparation process described in subsection (7)(a) may not begin sooner than 1 business day before election day.

(9) The election administrator shall safely and securely keep the absentee ballots in the election administrator's office until delivered by the election administrator to the election judges.

(10) The secretary of state shall develop administrative rules to establish the process and procedures to be used during the early preparation of ballots to ensure the security of the ballots and the secrecy of the votes during the early preparation period. The rules must include but are not limited to:

- (a) the allowable distance from the observers to the judges and ballots;
- (b) the security in the observation area;
- (c) secrecy of votes during the preparation of the ballots; and
- (d) security of the secured ballot boxes in storage until tabulation procedures begin."

Section 4. Section 13-37-219, MCA, is amended to read:

"13-37-219. Limitations on contributions to candidate when office sought is not known. A candidate, as defined in ~~13-1-101(8)(b)~~ *13-1-101(10)(b)*, who has not determined the office to which the individual will seek nomination or election is subject to the lowest contribution limitation of the offices the candidate is considering seeking."

Section 5. Section 13-37-226, MCA, is amended to read:

"13-37-226. Time for filing reports. (1) Except as provided in 13-37-206 and 13-37-225(3), a candidate shall file reports required by 13-37-225(1)(a) containing the information required by 13-37-229, 13-37-231, and 13-37-232 as follows:

(a) quarterly, due on the 5th day following a calendar quarter, beginning with the calendar quarter in which funds are received or expended during the year or years prior to the election year that the candidate expects to be on the ballot and ending in the final quarter of the year preceding the year of an election in which the candidate participates;

(b) except as provided in subsection (4)(a), the 20th day of March, April, May, June, August, September, October, and November in the year of an election in which the candidate participates;

(c) except as provided in subsection (6), within 2 business days of receiving a contribution equal to the applicable limitation provided in 13-37-216 for the candidate if the contribution is received between the 15th day of the month preceding an election in which the candidate participates and the day before the election;

(d) except as provided in subsection (6), within 2 business days of making an expenditure of an amount equal to or more than the applicable contribution limitation provided in 13-37-216 for the candidate if made between the 15th day of the month preceding an election in which the candidate participates and the day before the election;

(e) semiannually on the 10th day of March and September, starting in the year following an election in which the candidate participates until the candidate files a closing report as specified in 13-37-228(3); and

(f) as provided by subsection (3).

(2) Except as provided in 13-37-206, 13-37-225(3), and 13-37-227, a political committee or a joint fundraising committee shall file reports required by 13-37-225(1)(a) containing the information required by 13-37-229, 13-37-231, and 13-37-232 as follows:

(a) quarterly, due on the 5th day following a calendar quarter, beginning with the calendar quarter in which the political committee or the joint fundraising committee receives a contribution or makes an expenditure after an individual becomes a candidate or an issue becomes a ballot issue, as defined in ~~13-1-101(6)(b)~~ 13-1-101(7)(b), and ending in the final quarter of the year preceding the year in which the candidate or the ballot issue appears on the ballot;

(b) except as provided in subsection (4)(b), the 30th day of March, April, May, June, August, September, October, and November in the year of an election in which the political committee or the joint fundraising committee participates;

(c) within 2 business days of receiving a contribution, except as provided in 13-37-232, of \$500 or more if received between the 25th day of the month before an election in which the political committee or the joint fundraising committee participates and the day before the election;

(d) within 2 business days of making an expenditure of \$500 or more that is made between the 25th day of the month before an election in which the political committee or the joint fundraising committee participates and the day before the election;

(e) quarterly, due on the 5th day following a calendar quarter, beginning in the calendar quarter following a year of an election in which the political committee or the joint fundraising committee participates until the political committee or the joint fundraising committee files a closing report as specified in 13-37-228(3); and

(f) as provided by subsection (3).

(3) In addition to the reports required by subsections (1), (2), and (4), if a candidate, political committee, or joint fundraising committee participates in a special election, the candidate, political committee, or joint fundraising committee shall file reports as follows:

(a) a report on the 60th, 35th, and 12th days preceding the date of the special election; and

(b) 20 days after the special election.

(4) (a) A candidate for a municipal office who participates in an election held in an odd-numbered year shall file the reports required in subsection (1) on the 20th day of June, July, August, September, October, and November of the year of the election in which the candidate participates.

(b) A political committee that participates in a municipal election held in an odd-numbered year shall file the reports required in subsection (2) on the 30th day of June, July, August, September, October, and November of the year of the election in which the committee participates.

(5) Except as provided by 13-37-206, candidates for a local office and political committees that receive contributions or make expenditures referencing a particular local issue or a local candidate shall file the reports specified in subsections (1) through (4) only if the total amount of contributions received or the total amount of funds expended for all elections in a campaign exceeds \$500.

(6) A candidate is not required to file a report required by subsection (1)(c) or (1)(d) if the candidate is not opposed in the election.

(7) A report required by this section must cover contributions received and expenditures made pursuant to the time periods specified in 13-37-228.

(8) A report required by this section is due by 11:59 p.m. on the due date.

(9) A political committee may file a closing report prior to the date in 13-37-228(3) and after the complete termination of its contribution and expenditure activity during an election cycle.

(10) For the purposes of this section:

(a) a candidate participates in an election by attempting to secure nomination or election to an office that appears on the ballot; and

(b) a political committee or a joint fundraising committee participates in an election by receiving a contribution or making an expenditure.”

Section 6. Section 13-37-234, MCA, is amended to read:

“13-37-234. Religious organization exemptions to be broadly construed. Pursuant to the first amendment to the United States constitution and to ensure the consistent application of the law, the commissioner shall broadly construe the exemptions concerning religious organizations provided in ~~13-1-101(9)(b)(iv), (15)(b)(v), (19)(b)(v), and (21)(b)(vi)~~ 13-1-101(12)(b)(iv), (18)(b)(v), (22)(b)(v), and (24)(b)(vi).”

Section 7. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 391

[SB 362]

AN ACT REVISING MUNICIPAL FIREFIGHTER QUALIFICATIONS; ALLOWING THE FIRE CHIEF TO QUALIFY A PERSON CONVICTED OF CERTAIN FELONIES AS A FIREFIGHTER; AND AMENDING SECTIONS 7-33-4107 AND 7-33-4108, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-33-4107, MCA, is amended to read:

“7-33-4107. Qualifications of firefighters. (1) The state of Montana determines that qualifications for the firefighting profession must recognize the rigorous physical demands placed on firefighters and the expectation of many years of emergency service. To qualify as a firefighter, an applicant:

(1)(a) must be a citizen or lawful permanent resident of the United States;

(2)(b) must be at least 18 years of age;

(3)(c) must be a high school graduate or have been issued a high school equivalency diploma by the superintendent of public instruction or by an appropriate issuing agency of another state or of the federal government;

(4)(d) must possess or be eligible for a valid Montana driver’s license;

(5)(e) shall pass a physical examination by a qualified physician, physician assistant, or advanced practice registered nurse, who is not the applicant’s personal physician, physician assistant, or advanced practice registered nurse, appointed by the employing authority to determine if the applicant is free from any mental or physical condition that might adversely affect the applicant’s performance of the duties of a firefighter, including requirements described in 7-33-1902;

(6)(f) must be fingerprinted and a search must be made of the local, state, and national fingerprint files to disclose any criminal record; and

(7)(g) *except as provided in subsection (2), may not have been convicted of a crime for which the applicant could have been imprisoned in a federal or state penitentiary.*

(2) (a) *Pursuant to subsection (2)(b), at the discretion of the fire chief, an applicant who has been convicted of a misdemeanor or a felony may be allowed to qualify as a firefighter.*

(b) *A fire chief may not allow an applicant to qualify as a firefighter if the applicant has been convicted of a crime that requires the applicant to register on the sexual or violent offender registry under Title 46, chapter 23, part 5."*

Section 2. Section 7-33-4108, MCA, is amended to read:

"7-33-4108. Physical examination. The examination required by 7-33-4107(5)(1)(e) must be in writing, and a written determination of the examination must be filed with the city or town clerk. The determination of the examination must disclose the ability of the applicant to perform the physical work usually required of firefighters in the performance of their duty."

Approved May 5, 2025

CHAPTER NO. 392

[SB 369]

AN ACT GENERALLY REVISING SCHOOL YOUTH SUICIDE PREVENTION LAWS; STRENGTHENING YOUTH SUICIDE PREVENTION EFFORTS IN MONTANA SCHOOLS; REQUIRING THE OFFICE OF PUBLIC INSTRUCTION TO ENSURE LOW-COST AND NO-COST OPTIONS FOR YOUTH SUICIDE AWARENESS AND PREVENTION TRAINING; REQUIRING YOUTH SUICIDE AWARENESS AND PREVENTION TRAINING FOR CERTAIN OFFICE OF PUBLIC INSTRUCTION EMPLOYEES AND FOR SCHOOL DISTRICT EMPLOYEES; REQUIRING THAT THE POLICIES, PROCEDURES, OR PLANS RELATED TO SUICIDE PREVENTION AND RESPONSE DEVELOPED BY A SCHOOL DISTRICT INCLUDE A DESCRIPTION OF YOUTH SUICIDE AWARENESS AND PREVENTION TRAINING REQUIREMENTS FOR SCHOOL DISTRICT EMPLOYEES; AMENDING SECTION 20-7-1310, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-7-1310, MCA, is amended to read:

"20-7-1310. Youth suicide awareness and prevention training.

(1) This section may be cited as the "Suicide Awareness and Prevention Training Act".

(2) The office of public instruction shall provide guidance and technical assistance to Montana schools on youth suicide awareness and prevention training materials. All training materials offered must be approved by the office of public instruction, meet the standards for professional development in the state, and be periodically reviewed by a qualified person or committee for consistency with generally accepted principles of youth suicide awareness and prevention training. *The office of public instruction, in consultation with the department of public health and human services, shall ensure low-cost and no-cost training options for schools.*

(3) ~~The legislature recommends that youth~~ Youth suicide awareness and prevention training *must* be made available annually to each employee of a school district and to staff of the office of public instruction who work directly

with any students enrolled in Montana public schools. The training must be provided at no cost to the employee. The training may be offered through any method of training identified in subsection (4).

(4) ~~The legislature recommends that employees~~ *Employees* under subsection (3) ~~shall~~ take at least ~~2 hours~~ *1 hour* of youth suicide awareness and prevention training every ~~5~~ *3* years. Appropriate methods for delivery of the training include:

- (a) in-person attendance at a live training;
- (b) videoconference;
- (c) an individual program of study of designated materials;
- (d) self-review modules available online; and
- (e) any other method chosen by the local school board that is consistent with professional development standards.

(5) The trustees of a school district shall establish policies, procedures, or plans related to suicide prevention and response. *The policies, procedures, or plans must include a description of the youth suicide awareness and prevention training requirements for school district employees pursuant to subsections (3) and (4).*

(6) No cause of action may be brought for any loss or damage caused by any act or omission resulting from the implementation of the provisions of this section or resulting from any training or lack of training related to this section. Nothing in this section may be construed to impose a specific duty of care.”

Section 2. Effective date. [This act] is effective July 1, 2025.

Approved May 5, 2025

CHAPTER NO. 393

[SB 373]

AN ACT REVISING LAWS RELATED TO ENFORCEMENT OF LIENS; REVISING REQUIREMENTS FOR A SUMMONS AND AN ORDER TO SHOW CAUSE; REVISING LOCATIONS FOR FILINGS AND HEARINGS; AND AMENDING SECTION 71-3-1203, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 71-3-1203, MCA, is amended to read:

“71-3-1203. Enforcement of lien – sale. If payment for work, labor, or services performed or feed or material furnished is not made within 30 days after the performance of the work, labor, or services or furnishing of the feed or material, the lienor under the provisions of this part may enforce the lien in the following manner:

(1) The lienor may file a lien enforcement action in ~~the district court of the county~~ *a court of competent jurisdiction in the county in which the:*

(a) contract between the lienor and the owner of the property was entered into;

(b) owner resided at the time the lien enforcement action commenced; or

(c) property is located.

(2) *Issuance or service of a summons is not required when a claim is made under this section. The order to show cause pursuant to subsection (5)(a) is in lieu of a summons as permitted by Rule 4(c)(2)(C), M.R.Civ.P., and Rule 4D(3) of the Montana Justice and City Courts Rules of Civil Procedure. A notice to or service of process on the owner is not required prior to the issuance of the order to show cause pursuant to subsection (5)(a).*

(2)(3) When a claim is made under this section for a lien other than a nonpossessory special lien, an affidavit must be made by the lienor claiming the property or by someone on the lienor's behalf, stating:

(a) the facts that the lienor performed a service for the property owner entitling the lienor to a lien on the owner's property pursuant to 71-3-1201;

(b) that the service described in subsection ~~(2)(a)~~ (3)(a) was performed at the written or verbal request of the owner or owner's agent;

(c) ~~a~~ the particular property upon which the lien is claimed; and

(d) an itemized list of the charges that are due and unpaid under the lien.

~~(3)(4)~~ When a claim is made under this section for a nonpossessory special lien, the lienor shall submit to the court:

(a) a copy of the document required by 71-3-1201(2)(c); and

(b) a statement of the charges that are due and unpaid under the lien.

~~(4)(5)~~ (a) If satisfactory, the court shall order the owner of the property to show cause why the property should not be sold pursuant to the procedures in this section. The order must include the date and time for a hearing. ~~The hearing may not be held more than 20 working days after the date of the issuance of the order.~~

(b) ~~One copy of The court the order to show cause provided for in subsection (4)(a)~~ (5)(a) must be served on the owner pursuant to the Montana Rules of Civil Procedure on the owner by certified mail, return receipt requested, and one copy must be served by first-class mail at the owner's last address known to the lienor at least 5 21 days before the hearing date.

~~(5)(6)~~ The lienor shall deliver to the sheriff of the county in which the property is located a copy of the court's lien enforcement judgment.

~~(6)(7)~~ Upon receipt of the court's lien enforcement judgment, the sheriff shall advertise and sell at public auction as much of the property covered by the lien as will satisfy the lien.

~~(7)(8)~~ The sale must be advertised, conducted, and held in the same manner as prescribed in 25-13-701(1)(b).

~~(8)(9)~~ The owner of the property may request a hearing in ~~district a court of competent jurisdiction~~ to contest any matter regarding the sale of the property.

~~(9)(10)~~ The sheriff shall apply the proceeds of the sale to the discharge of the lien and the cost of the proceedings in selling the property and enforcing the lien, and the remainder, if any, or a part that is required to discharge the claims, must be turned over by the sheriff to the holders, in the order of their precedence, of the chattel mortgages or other lien claimants of record against the property, and the balance of the proceeds must be turned over to the owner of the property."

Approved May 5, 2025

CHAPTER NO. 394

[SB 375]

AN ACT REVISING LAWS RELATED TO THE SALE OF HEMP PRODUCTS TO CONSUMERS; PROHIBITING THE SALE OF HEMP PRODUCTS THAT CONTAIN THC TO CONSUMERS; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Sale of hemp product containing THC to consumers prohibited. (1) Unless authorized as a food or drug by the United States

food and drug administration, a hemp product containing total delta-9 tetrahydrocannabinol (THC) may not be sold to a consumer in the state.

(2) For the purposes of this section, the following definitions apply:

(a) “Consumer” means an individual who is a member of the public, takes possession of the hemp product, and does not offer the hemp product for resale.

(b) “Hemp” has the same meaning as provided in 80-18-101.

(c) “Hemp product” means a product that contains postharvest hemp and that is intended for consumption, smoking, vaping, or another method of administration.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 50, chapter 31, part 2, and the provisions of Title 50, chapter 31, part 2, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 395

[SB 380]

AN ACT GENERALLY REVISING LAWS RELATED TO MOTOR VEHICLES; INCLUDING THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IN A LIST OF UNITED STATES TERRITORIES ISSUING DRIVER'S LICENSES AND OTHER IDENTIFICATIONS; REVISING DISABILITY PARKING PERMIT APPLICATION REQUIREMENTS; REVISING DEFINITIONS; REVISING VEHICLE TITLE LAWS; REVISING VEHICLE REGISTRATION LAWS; ALLOWING THE DEPARTMENT AND CERTAIN APPLICANTS TO CONDUCT MORE BUSINESS ELECTRONICALLY; REORGANIZING DEFINITIONS IN TITLE 61, CHAPTER 3, PART 4, MCA; REVISING LICENSE PLATE LAWS; REVISING THE MINIMUM AGE FOR A DRIVER'S LICENSE; REVISING CERTAIN EXPIRATIONS FOR COMMERCIAL DRIVER'S LICENSES; REVISING STATUTES FOR THE CANCELLATION OF LICENSES; PROVIDING DEFINITIONS; AMENDING SECTIONS 2-6-1501, 49-4-303, 61-1-101, 61-3-109, 61-3-201, 61-3-202, 61-3-204, 61-3-210, 61-3-217, 61-3-220, 61-3-224, 61-3-303, 61-3-321, 61-3-401, 61-3-405, 61-3-412, 61-3-413, 61-4-101, 61-4-125, 61-4-128, 61-4-129, 61-4-225, 61-4-301, 61-5-105, 61-5-111, 61-5-119, 61-5-201, 61-8-1016, 61-8-1017, 61-8-1032, AND 61-12-501, MCA; AND REPEALING SECTIONS 61-3-413, 61-3-426, 61-3-473, AND 61-5-209, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-6-1501, MCA, is amended to read:

“2-6-1501. Definitions. As used in this part, the following definitions apply:

(1) “Breach of the security of a data system” or “breach” means the unauthorized acquisition of computerized data that:

(a) materially compromises the security, confidentiality, or integrity of the personal information maintained by a state agency or by a third party on behalf of a state agency; and

(b) causes or is reasonably believed to cause loss or injury to a person.

(2) “Chief information security officer” means an employee at the department of administration designated by the chief information officer who is responsible for protecting the state’s information assets and citizens’ data by:

(a) advising and overseeing information security strategy and programs for executive branch state agencies without elected officials;

(b) advising and consulting information security strategy and programs for executive branch state agencies with elected officials and the legislative and judicial branches; and

(c) advising information security strategy and programs for city, county, consolidated city-county, and local governments and for school districts, other political subdivisions, or tribal governments.

(3) “Individual” means a human being.

(4) “Person” means an individual, a partnership, a corporation, an association, or a public organization of any character.

(5) (a) “Personal information” means a first name or first initial and last name in combination with any one or more of the following data elements when the name and data elements are not encrypted:

(i) a social security number;

(ii) a driver’s license number, an identification card number issued pursuant to 61-12-501, a tribal identification number or enrollment number, or a similar identification number issued by any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, *the Commonwealth of the Northern Mariana Islands*, the Virgin Islands, or American Samoa;

(iii) an account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to a person’s financial account;

(iv) medical record information as defined in 33-19-104;

(v) a taxpayer identification number; or

(vi) an identity protection personal identification number issued by the United States internal revenue service.

(b) The term does not include publicly available information from federal, state, local, or tribal government records.

(6) “Redaction” means the alteration of personal information contained within data to make all or a significant part of the data unreadable. The term includes truncation, which means that no more than the last four digits of an identification number are accessible as part of the data.

(7) “Security incident” means an occurrence that:

(a) actually or potentially jeopardizes the confidentiality, integrity, or availability of an information system or the information the system processes, stores, or transmits; or

(b) constitutes a violation or imminent threat of violation of security policies, security procedures, or acceptable use policies.

(8) (a) “State agency” means an agency, authority, board, bureau, college, commission, committee, council, department, hospital, institution, office, university, or other instrumentality of the legislative or executive branch of state government. The term includes an employee of a state agency acting within the course and scope of employment.

(b) The term does not include an entity of the judicial branch.

(9) “Third party” means:

(a) a person with a contractual obligation to perform a function for a state agency; or

(b) a state agency with a contractual or other obligation to perform a function for another state agency.”

Section 2. Section 49-4-303, MCA, is amended to read:

“49-4-303. Issuance of interim disability parking permit. A licensed ~~certified~~ physician, a licensed chiropractor, or a ~~licensed~~ advanced practice registered nurse, ~~as provided in 37-8-202,~~ may issue an interim disability parking permit, in a form authorized by the department, to a person who has a disability that limits or impairs the person’s mobility and upon whose behalf the physician, chiropractor, or advanced practice registered nurse has submitted a request for a disability parking permit under 49-4-301. The interim disability parking permit is valid only in Montana, may not be renewed or extended, and expires 5 days from the date of issuance.”

Section 3. Section 61-1-101, MCA, is amended to read:

“61-1-101. Definitions. As used in this title, unless the context indicates otherwise, the following definitions apply:

(1) (a) “Authorized agent” means a person who has executed a written agreement with the department and is specifically authorized by the department to electronically access and update the department’s motor vehicle titling, registration, or driver records, using an approved automated interface, for specific functions or purposes on behalf of a third party.

(b) For purposes of this subsection (1), “person” means an individual, corporation, partnership, limited partnership, limited liability company, association, joint venture, state agency, local government unit, another state government, the United States, a political subdivision of this or another state, or any other legal or commercial entity.

(2) “Authorized agent agreement” means the written agreement executed between an authorized agent and the department that sets the technical and operational program standards, compliance criteria, payment options, and service expectations by which the authorized agent is required to operate in performing specific motor vehicle or driver-related record functions.

(3) “Autocycle” means a three-wheeled motorcycle that is equipped with safety belts, roll bars or roll hoops, a steering wheel, and seating that does not require the operator to straddle or sit astride it.

(4) “Bus” means a motor vehicle designed for carrying *10 or more than 10* passengers and used for the transportation of persons and any other motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(5) (a) “Business entity” means a corporation, association, partnership, limited liability partnership, limited liability company, or other legal entity recognized under state law.

(b) The term does not include an individual.

(6) (a) “Camper” means a structure designed to be mounted in the cargo area of a truck or attached to an incomplete vehicle for the purpose of providing shelter for persons. The term includes but is not limited to a cab-over, half cab-over, noncab-over, telescopic, and telescopic cab-over.

(b) The term does not include a truck canopy cover or topper.

(7) “CDLIS driver record” means the electronic record of a person’s commercial driver’s license status and history stored as part of the commercial driver’s license system established under 49 U.S.C. 31309.

(8) “Certificate of title” means the paper record issued by the department or by the appropriate agency of another jurisdiction that establishes a verifiable record of ownership between an identified person or persons and the motor vehicle specifically described in the record and that provides notice of a perfected security interest in the motor vehicle.

(9) “Commercial driver’s license” means:

(a) a driver's license issued under or granted by the laws of this state that authorizes a person to operate a class of commercial motor vehicle; or

(b) the privilege of a person to drive a commercial motor vehicle, whether or not the person holds a valid commercial driver's license.

(10) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

(i) has a gross combination weight rating or a gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

(ii) has a gross vehicle weight rating or a gross vehicle weight of 26,001 pounds or more, whichever is greater;

(iii) is designed to transport at least 16 passengers, including the driver;

(iv) is a school bus; or

(v) is of any size and is used in the transportation of hazardous materials.

(b) The following vehicles are not commercial motor vehicles:

(i) an authorized emergency vehicle:

(A) equipped with audible and visual signals as required under 61-9-401 and 61-9-402; and

(B) operated when responding to or returning from an emergency call or operated in another official capacity;

(ii) a vehicle:

(A) controlled and operated by a farmer, family member of the farmer, or person employed by the farmer;

(B) used to transport farm products, farm machinery, or farm supplies to or from the farm within Montana within 150 miles of the farm or, if there is a reciprocity agreement with a state adjoining Montana, within 150 miles of the farm, including any area within that perimeter that is in the adjoining state; and

(C) not used to transport goods for compensation or for hire; or

(iii) a vehicle operated for military purposes by active duty military personnel, a member of the military reserves, a member of the national guard on active duty, including personnel on full-time national guard duty, personnel in part-time national guard training, and national guard military technicians, or active duty United States coast guard personnel.

(c) For purposes of this subsection (10):

(i) "farmer" means a person who operates a farm or who is directly involved in the cultivation of land or crops or the raising of livestock owned by or under the direct control of that person;

(ii) "gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination or articulated vehicle;

(iii) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle; and

(iv) "school bus" has the meaning provided in 49 CFR 383.5.

(11) "Commission" means the state transportation commission.

(12) "Custom-built motorcycle" means a motorcycle that is equipped with:

(a) an engine that was manufactured 20 years prior to the current calendar year and that has been altered from the manufacturer's original design; or

(b) an engine that was manufactured to resemble an engine 20 or more years old and that has been constructed in whole or in part from nonoriginal materials.

(13) "Custom vehicle" means a motor vehicle other than a motorcycle that:

(a) (i) was manufactured with a model year after 1948 and that is at least 25 years old; or

(ii) was built to resemble a vehicle manufactured after 1948 and at least 25 years before the current calendar year, including a kit vehicle intended to resemble a vehicle manufactured after 1948 and that is at least 25 years old; and

(b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

(14) "Customer identification number" means:

(a) a driver's license or identification card number when the customer is an individual who has been issued a driver's license or identification card by a state driver licensing authority;

(b) a federal employer or tax identification number when the customer is a business entity that has been issued a federal employer or tax identification number;

(c) the identification number assigned by the secretary of state to a business entity authorized to do business in this state under Title 35 if the customer is a business entity that does not have a federal employer or tax identification number other than a social security number; or

(d) if the customer has not been issued one of the numbers described in subsections (14)(a) through (14)(c), a number assigned to the customer by the department when a transaction is initiated under this title.

(15) (a) "Dealer" means a person that, for commission or profit, engages in whole or in part in the business of buying, selling, exchanging, or accepting on consignment new or used motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, off-highway vehicles, or special mobile equipment that is not registered in the name of the person.

(b) The term does not include the following:

(i) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under a judgment or order of any court of competent jurisdiction;

(ii) employees of the persons included in subsection (15)(b)(i) when engaged in the specific performance of their duties as employees; or

(iii) public officers while performing or in the operation of their duties;

(iv) *a person or business who leases property for the purpose of selling vehicles and does not have personnel directly involved with the management of the vehicle business, the sale of vehicles, or regular operating hours open to the public or does not have customer service representatives at the business location in this state. This does not include an entity participating in a state-approved program through a third-party technology service provider or a direct technology integration.*

(v) *a business that operates outside of the traditional regulatory framework of a Montana licensed dealer when no Montana title is secured, and the sale of the vehicle is completed outside of the state. This shadow dealer activity includes leasing and creating unmanned storefronts in this state for the purpose of selling vehicles outside of the state.*

(16) "Declared weight" means the total unladen weight of a vehicle plus the weight of the maximum load to be carried on the vehicle as stated by the registrant in the application for registration.

(17) "Department" means the department of justice acting directly or through its duly authorized officers or agents.

(18) "Dolly or converter gear" means a device consisting of one or two axles with a fifth wheel and trailer tongue used to support the forward end of a semitrailer, converting a semitrailer into a trailer.

(19) "Domiciled" means a place where:

(a) an individual establishes residence;

- (b) a business entity maintains its principal place of business;
- (c) the business entity's registered agent maintains an address; or
- (d) a business entity most frequently uses, dispatches, or controls a motor vehicle, trailer, semitrailer, or pole trailer that it owns or leases.

(20) "Downgrade" means the removal of a person's privilege to operate a commercial motor vehicle, as maintained by the department on the individual Montana driving record and the CDLIS driver record for that person.

(21) "Driver" means a person who drives or is in actual physical control of a vehicle.

(22) "Driver's license" means a license or permit to operate a motor vehicle issued under or granted by the laws of this state, including:

- (a) any temporary license or learner license;
- (b) the privilege of any person to drive a motor vehicle, whether or not the person holds a valid license;
- (c) any nonresident's driving privilege;
- (d) a motorcycle endorsement; or
- (e) a commercial driver's license.

(23) "Electric personal assistive mobility device" means a device that has two nontandem wheels, is self-balancing, and is designed to transport only one person with an electric propulsion system that limits the maximum speed of the device to 12 1/2 miles an hour.

(24) "For hire" means an action performed for remuneration of any kind, whether paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

(25) (a) "Golf cart" means a motor vehicle that is designed for use on a golf course to carry a person or persons and golf equipment and that has an average speed of less than 15 miles per hour.

(b) Except as provided in 61-3-201, a golf cart is exempt from titling, registration, and mandatory liability insurance requirements under this title.

(26) "Gross vehicle weight" means the weight of a vehicle without load plus the weight of any load on the vehicle.

(27) "Hazardous material" means:

(a) any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under 49 CFR, part 172; or

(b) any quantity of a material listed as a select agent or toxin in 42 CFR, part 73.

(28) "Highway" or "public highway" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(29) "Highway patrol officer" means a state officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(30) "Implement of husbandry" means a vehicle that is designed for agricultural purposes and exclusively used by the owner of the vehicle in the conduct of the owner's agricultural operations.

(31) "Kit vehicle" is a motor vehicle assembled from a manufactured kit either as:

(a) a complete kit, consisting of a prefabricated body and chassis, to construct a new motor vehicle; or

(b) a kit with a prefabricated body to be mounted to an existing motor vehicle chassis and drivetrain, commonly referred to as a donor vehicle.

(32) "Light vehicle" means a motor vehicle commonly referred to as an automobile, van, sport utility vehicle, or truck having a manufacturer's rated capacity of 1 ton or less.

(33) “Low-speed electric vehicle” means a motor vehicle, on or by which a person may be transported, that:

- (a) has four wheels;
- (b) has a maximum speed of at least 20 miles an hour and no greater than 40 miles an hour as certified by the manufacturer;
- (c) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle;
- (d) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources;
- (e) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;
- (f) exhibits a manufacturer’s compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565; and
- (g) is equipped as provided in 61-9-432.

(34) “Low-speed restricted driver’s license” means a license limited to the operation of a low-speed electric vehicle or a golf cart issued under or granted by the laws of this state, including:

- (a) a temporary license or learner license;
- (b) the privilege of a person to drive a low-speed electric vehicle or golf cart under the authority of 61-5-122, whether or not the person holds a valid driver’s license; and
- (c) a nonresident’s similarly restricted driving privilege.

(35) “Manufactured home” has the meaning provided in 15-24-201.

(36) “Manufacturer” includes any person engaged in the manufacture of motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, or off-highway vehicles as a regular business.

(37) “Manufacturer’s certificate of origin” means the original paper record produced and issued by the manufacturer of a vehicle or, if in a medium authorized by the department, an electronic record created and transmitted by the manufacturer of a vehicle to the manufacturer’s agent or a licensed dealer. The record must establish the origin of the vehicle specifically described in the record and, upon assignment, transfers of ownership of the vehicle to the person or persons named in the certificate.

(38) (a) “Medium-speed electric vehicle” is a motor vehicle, on or by which a person may be transported, that:

- (i) has a maximum speed of 45 miles an hour as certified by the manufacturer;
 - (ii) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle;
 - (iii) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources;
 - (iv) is fully enclosed and includes at least one door for entry;
 - (v) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;
 - (vi) exhibits a manufacturer’s compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565;
 - (vii) bears a sticker, affixed by the manufacturer or dealer, on the left side of the rear window that indicates the vehicle’s maximum speed rating; and
 - (viii) as certified by the manufacturer, is equipped as provided in 61-9-432.
- (b) A medium-speed electric vehicle must be treated as a light vehicle for purposes of titling and registration under Title 61, chapter 3.

(c) A medium-speed electric vehicle may not have a gross vehicle weight in excess of 5,000 pounds.

(39) “Mobile home” or “housetrailer” has the meaning provided in 15-24-201.

(40) “Montana resident” means:

(a) an individual who resides in Montana as determined under 1-1-215; or

(b) for the purposes of chapter 3, a business entity that maintains a principal place of business or a registered agent in this state.

(41) (a) “Motor carrier” means a person or corporation or its lessees, trustees, or receivers appointed by a court that are operating motor vehicles on a public highway in this state for the transportation of property for hire on a commercial basis.

(b) The term does not include motor carriers regulated under Title 69, chapter 12.

(42) “Motor home” means a motor vehicle:

(a) designed to provide temporary living quarters, built as an integral part of or permanently attached to a self-propelled motor vehicle chassis or van;

(b) containing permanently installed independent life support systems that meet the NFPA 1192 standard on recreational vehicles; and

(c) providing at least four of the following types of facilities:

(i) cooking, refrigeration, or icebox;

(ii) self-contained toilet;

(iii) heating or air conditioning, or both;

(iv) potable water supply, including a faucet and sink; or

(v) separate 110-volt or 125-volt electrical power supply or a liquefied petroleum gas supply, or both.

(43) (a) “Motor vehicle” means:

(i) a vehicle propelled by its own power and designed or used to transport persons or property on the highways of the state;

(ii) a quadricycle if it is equipped for use on the highways as prescribed in chapter 9; or

(iii) a golf cart only if it is equipped for use on the highways as prescribed in chapter 9 and is operated pursuant to 61-8-391 or by a person with a low-speed restricted driver’s license.

(b) The term does not include a bicycle or a moped as defined in 61-8-102, an electric personal assistive mobility device, a motorized nonstandard vehicle, or a motorized wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(44) (a) “Motorboat” means a vessel, including a personal watercraft or pontoon, propelled by any machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.

(b) The term does not include a vessel that has a valid marine document issued by the United States coast guard or any successor federal agency.

(45) (a) “Motorcycle” means a motor vehicle that has a seat or saddle for the use of the operator and that is designated to travel on not more than three wheels in contact with the ground. A motorcycle may carry one or more attachments and a seat for the conveyance of a passenger.

(b) A motorcycle designed for use on highways is a motor vehicle unless otherwise prescribed.

(c) A motorcycle designed for off-road recreational use is an off-highway vehicle unless it has been modified to meet the equipment standards specified in chapter 9 and has been registered for highway use.

(d) The term includes an autocycle.

(e) The term does not include a tractor, a bicycle or a moped as defined in 61-8-102, a motorized nonstandard vehicle, or a two- or three-wheeled all-terrain vehicle that is used exclusively on private property.

(46) (a) "Motor-driven cycle" means a motorcycle, including a motor scooter, with a motor that produces 5 horsepower or less.

(b) The term does not include a bicycle or a moped, as defined in 61-8-102, or a motorized nonstandard vehicle.

(47) (a) "Motorized nonstandard vehicle" means a vehicle, on or by which a person may be transported, that:

(i) is propelled by its own power, using an internal combustion engine or an electric motor;

(ii) has a wheelbase of less than 40 inches and a wheel diameter of less than 10 inches; and

(iii) does not display a manufacturer's certification in accordance with 49 CFR, part 567, or have a 17-character vehicle identification number assigned by the manufacturer in accordance with 49 CFR, part 565.

(b) The term includes but is not limited to a motorized skateboard and a vehicle commonly known as a "pocket rocket".

(c) The term does not include a moped as defined in 61-8-102, an electric personal assistive mobility device, or a motorized wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person.

(48) "New motor vehicle" means a motor vehicle, regardless of the mileage of the vehicle, the legal or equitable title to which has never been transferred by a manufacturer, distributor, or dealer to another person as the result of a retail sale.

(49) "Nonresident" means a person who is not a Montana resident.

(50) (a) "Not used for general transportation purposes" means the operation of a motor vehicle registered as a collector's item, a custom vehicle, a street rod, or a custom-built motorcycle to or from a car or motorcycle club activity or event or an exhibit, show, cruise night, or parade, or for other occasional transportation activity.

(b) The term does not include operation of a motor vehicle for routine or ordinary household maintenance, employment, education, or other similar purposes.

(51) (a) "Off-highway vehicle" means a self-propelled vehicle designed for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.

(b) The term does not include:

(i) vehicles designed primarily for travel on, over, or in the water;

(ii) snowmobiles; or

(iii) motor vehicles designed to transport persons or property on the highways unless the vehicle is used for off-road recreation on public lands.

(52) "Operator" means a person who is in actual physical control of a motor vehicle.

(53) "Owner" means each person who holds the legal title to a vehicle. If a vehicle is the subject of an agreement for the conditional sale of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession and control vested in an individual human being or in the event a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security

or otherwise in an individual human being, or in the event a mortgagor of a vehicle is entitled to possession and control, then the owner is the individual human being or mortgagor in whom is vested the right of possession and control.

(54) "Person" means an individual human being, corporation, partnership, association, firm, or other legal entity.

(55) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel.

(56) "Pole trailer" means a vehicle without power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable generally of sustaining themselves as beams between the supporting connections.

(57) "Police officer" means an officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(58) (a) "Quadricycle" means a four-wheeled motor vehicle, designed for on-road or off-road use, having a seat or saddle on which the operator sits.

(b) The term does not include golf carts.

(59) "Railroad" means a carrier of persons or property on cars, other than streetcars, operated on stationary rails.

(60) (a) "Railroad train" or "train" means a steam engine or electric or other motor, with or without cars coupled to the engine, that is operated on rails.

(b) The term does not include streetcars.

(61) "Recreational vehicle" includes a motor home, travel trailer, or camper.

(62) "Registration" or "register" means the act or process of creating an electronic record, maintained by the department, of the assignment of a license plate or a set of license plates to and the issuance of a registration decal for a specific vehicle, the ownership of which has been established or is presumed in department records.

(63) "Registration decal" means an adhesive sticker produced by the department and issued by the department, its authorized agent, or a county treasurer to the owner of a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat, personal watercraft, or snowmobile as proof of payment of all fees imposed for the registration period indicated on the sticker as recorded by the department under 61-3-101.

(64) "Registration receipt" means a paper record that is produced and issued or, if authorized by the department, an electronic record that is transmitted by the department, its authorized agent, or a county treasurer to the owner of a vehicle that identifies a vehicle, based on information maintained in the electronic record of title for the vehicle, and that provides evidence of the payment of all fees required to be paid for the registration of the vehicle for the registration period indicated in the receipt.

(65) "Retail sale" means the sale of a motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment by a dealer to a person for purposes other than resale.

(66) "Revocation" means the termination by action of the department of a person's driver's license, privilege to drive a motor vehicle on the public highways, and privilege to apply for and be issued a driver's license for a period of time designated by law, during which the license or privilege may

not be renewed, restored, or exercised. An application for a new license may be presented and acted on by the department after the expiration of the period of the revocation.

(67) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event that a highway includes two or more separate roadways, the term refers to any roadway separately but not to all roadways collectively.

(68) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.

(b) The term does not include a canoe or kayak propelled by wind.

(69) "School zone" means an area near a school beginning at the school's front door, encompassing the campus and school property, and including the streets directly adjacent to the school property and for as many blocks surrounding the school as determined by the local authority establishing a special speed limit under 61-8-310(1)(d).

(70) "Sell" means to transfer ownership from one person to another person or from a dealer to another person for consideration.

(71) "Semitrailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(72) "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding accessories, that is designed primarily for travel on snow or ice, that may be steered by skis or runners, and that is not otherwise registered or licensed under the laws of the state of Montana.

(73) "Special mobile equipment" means a vehicle not designed for the transportation of persons or property on the highways but incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, and well-boring apparatus. The fact that equipment is permanently attached to a vehicle does not make the vehicle special mobile equipment. The enumeration in this subsection is partial and does not exclude other vehicles that are within the general terms of this subsection.

(74) (a) "Specially constructed vehicle" means a motor vehicle, including a motorcycle, that:

(i) was not originally constructed under a distinctive make, model, or type by a generally recognized manufacturer of motor vehicles;

(ii) has been structurally modified so that it does not have the same appearance as similar vehicles from a generally recognized manufacturer of motor vehicles;

(iii) has been constructed or assembled entirely from custom-built parts and materials not obtained from other vehicles;

(iv) has been constructed or assembled by using major component parts from one or more manufactured vehicles and that cannot be identified as a specific make or model; or

(v) has been constructed by the use of a kit that cannot be visually identified as a specific make or model.

(b) The term does not include a motor vehicle that has been repaired or restored to its original design by replacing parts.

(75) (a) "Sport utility vehicle" means a light vehicle designed to transport 10 or fewer persons that is constructed on a truck chassis or that has special features for occasional off-road use.

(b) The term does not include trucks having a manufacturer's rated capacity of 1 ton or less.

(76) (a) “Stop”, when required, means complete cessation from movement.

(b) “Stop”, “stopping”, or “standing”, when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, highway patrol officer, or traffic control sign or signal.

(77) “Storage lot” means property owned, leased, or rented by a dealer that is not contiguous to the dealer’s established place of business where a motor vehicle from the dealer’s inventory may be placed when space at the dealer’s established place of business is not available.

(78) “Street” means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(79) “Street rod” means a motor vehicle, other than a motorcycle, that:

(a) was manufactured prior to 1949 or was built to resemble a vehicle manufactured before 1949, including a kit vehicle intended to resemble a vehicle manufactured before 1949; and

(b) has been altered from the manufacturer’s original design or has a body constructed from nonoriginal materials.

(80) “Suspension” means the temporary withdrawal by action of the department of a person’s driver’s license, privilege to drive a motor vehicle on the public highways, and privilege to apply for or be issued a driver’s license for a period of time designated by law.

(81) “Temporary registration permit” means a paper record:

(a) issued by the department, an authorized agent, a county treasurer, or a person, using a department-approved electronic interface after an electronic record has been transmitted to the department, that contains:

(i) required vehicle and owner information; and

(ii) the purpose for which the record was generated; and

(b) that, when placed in a durable license-plate style plastic pouch approved by the department and displayed as prescribed in 61-3-224, authorizes a person to operate the described motor vehicle, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for:

(i) 40 days from the date the record is issued or until the vehicle is registered under Title 23 or this title, whichever first occurs;

(ii) *60 days from the date a license plate is ordered when the requested license plate is not readily available and needs to be manufactured; or*

(iii) *90 days from the date the record is issued for a permit issued pursuant to 61-3-303(4)(b).*

(82) “Traffic” means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highways for purposes of travel.

(83) (a) “Trailer” means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests on the towing vehicle.

(b) The term does not include a mobile home or a manufactured home, as defined in 15-1-101.

(84) “Transaction summary receipt” means an electronic record produced and issued by the department, its authorized agent, or a county treasurer for which a paper receipt is issued. The record may be created by the department and transmitted to the owner of a vehicle, a secured party, or a lienholder. The record must contain a unique transaction record number and summarize and verify the electronic filing of the transaction described in the receipt on the electronic record of title maintained under 61-3-101.

(85) "Travel trailer" means a vehicle:

(a) that is 46 feet or less in length;

(b) that is of a size or weight that does not require special permits when towed by a motor vehicle; and

(c) that is designed to provide temporary facilities for recreational, travel, or camping use and not used as a principal residence.

(86) "Truck" or "motortruck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(87) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

(88) "Under the influence" has the meaning provided in 61-8-1001.

(89) "Used motor vehicle" includes any motor vehicle that has been sold, bargained, exchanged, or given away or had its title transferred from the person who first took title to it from the manufacturer, importer, dealer, wholesaler, or agent of the manufacturer or importer and that has been used so as to have become what is commonly known as "secondhand" within the ordinary meaning of that term.

(90) "Van" means a motor vehicle designed for the transportation of at least six persons and not more than nine persons and intended for but not limited to family or personal transportation without compensation.

(91) (a) "Vehicle" means a device in, on, or by which any person or property may be transported or drawn on a public highway, except devices moved by animal power or used exclusively on stationary rails or tracks.

(b) The term does not include a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(92) "Vehicle identification number" means the number, letters, or combination of numbers and letters assigned by the manufacturer, by the department, or in accordance with the laws of another state or country for the purpose of identifying the motor vehicle or a component part of the motor vehicle.

(93) "Vessel" means every description of watercraft, unless otherwise defined by the department, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(94) "Wholesaler" means a person that for a commission or with intent to make a profit or gain of money or other thing of value sells, exchanges, or attempts to negotiate a sale or exchange of an interest in a used motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment only to dealers and auto auctions licensed under chapter 4, part 1."

Section 4. Section 61-3-109, MCA, is amended to read:

"61-3-109. Electronic title, lien filing, and registration. (1) The department shall develop and implement a pilot program to allow:

(a) electronic transmission of data by an authorized agent, a county treasurer, or a person to or from the department in lieu of the transmission of paper documents;

(b) substantiation of electronic record transactions performed by the department, an authorized agent, a county treasurer, or a person;

(c) the production and certification by a court or an authorized agent of a motor vehicle record generated from electronic records of title and registration maintained by the department;

(d) electronic filing, perfection, and release of security interests or liens of record;

(e) certification and audit by the department of its authorized agents; and

(f) expedited title services for customers with exceptional needs who are willing to pay an optional fee prescribed by the department by rule.

(2) Money collected from the fee imposed under subsection (1)(f) must be deposited in the motor vehicle information technology system account provided for in 61-3-550.

(3) *Electronic title is title to a vehicle.*

Section 5. Section 61-3-201, MCA, is amended to read:

“61-3-201. Certificate of title required – nonresident title – exclusions. (1) Except as provided in subsection (3), the owner of a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile that is in this state and for which a certificate of title has not been issued by or an electronic record of title has not been created by the department shall apply to the department, its authorized agent, or a county treasurer for a certificate of title for the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile.

(2) The department may determine requirements for nonresident businesses *and financial institutions* to apply for a title in this state and the department:

(a) may produce a title for nonresident business *and financial institution* applicants;

(b) may enter a voluntary security interest or lien on the title in accordance with 61-3-103;

(c) is authorized to establish an application fee and title fee for nonresident applicants;

(d) shall require ~~an~~ *a nonresident business* applicant to submit a penalty bond of no less than ~~\$250,000~~ *\$100,000* payable to the motor vehicle division, conditioned that the applicant will not commit fraud against any purchaser, seller, financial institution, the state, or any other state by using this section. *A financial institution is exempt from the bond requirement in this subsection (2)(d).*

(3) The following motor vehicles, trailers, semitrailers, pole trailers, campers, motorboats, personal watercraft, sailboats, or snowmobiles are exempt from the requirements of this part:

(a) a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile owned by the United States, unless the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile is registered in this state;

(b) except as required in 61-4-111, a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile that is:

(i) owned by a manufacturer, a dealer, a wholesaler, or an auto auction; and

(ii) held for sale, even though incidentally moved on the highway, used for purposes of testing or demonstration, or used solely by a manufacturer for testing;

(c) a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile owned by a nonresident or a nonresident who has an interest in real property in Montana who chooses not to register a motor vehicle in this state as provided in 61-3-303;

(d) a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile regularly engaged in the interstate transportation of persons or property and:

(i) for which a currently effective certificate of title has been issued in another state or jurisdiction; or

(ii) that is properly registered under the provisions of Title 61, chapter 3, part 7;

(e) a vehicle moved solely by human or animal power;

(f) an implement of husbandry;

(g) special mobile equipment or a motor vehicle or trailer designed and used to apply fertilizer to agricultural land;

(h) a self-propelled wheelchair or tricycle used by a person with a disability;

(i) a dolly or converter gear;

(j) a mobile home or housetrailer;

(k) a manufactured home declared to be an improvement to real property under 15-1-116; or

(l) a golf cart unless it is operated by a person with a low-speed restricted driver's license."

Section 6. Section 61-3-202, MCA, is amended to read:

"61-3-202. Certificate of title -- issuance -- contents -- joint ownership. (1) A certificate of title issued by the department must contain:

(a) the date issued;

(b) the name and address of the owner;

(c) the mileage disclosed by the transferor when ownership of the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile was transferred, including a notation that the record mileage is actual, not actual, or exceeds mechanical limits;

(d) the name and address of each secured party and lienholder, in the order of priority and perfection or, if the application was based on a surrendered certificate of title, in the order that the names and addresses are shown on the certificate of title;

(e) the title number assigned to the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile;

(f) the name of the jurisdiction in which the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile owner resides, the words "certificate of title", the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile identification number, the manufacturer's designated model year of manufacture, make, and model of the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile, and any required or carried-forward brands;

(g) the unique transaction record number, if available and assigned by the department; and

(h) any other data that the department prescribes.

(2) A certificate of title issued by the department is valid until cancelled by the department upon:

(a) a transfer, in the electronic record, of title of any ownership interest shown in the certificate of title;

(b) notice received by the department of the surrender of the certificate of title to a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile to a title-issuing agency of another jurisdiction for an issuance of a title in that jurisdiction;

(c) the issuance of a duplicate certificate of title; or

(d) a determination by the department that the certificate of title contains a substantial error or that the person who requested issuance of the certificate of title paid the required fees and taxes with an insufficient funds check.

(3) (a) Whenever the conditions described in subsection (2)(d) occur, the department shall:

(i) give prompt written notice of the cancellation of the certificate of title to any owner, secured party, or lienholder of record; and

(ii) stop any change to the electronic record of title.

(b) The action taken by the department under subsection (3)(a) prevents the transfer of any ownership interest until the error is corrected or the fees and taxes have been paid.

(4) If the names and addresses of more than one owner are listed on the certificate of title, joint ownership with right of survivorship, ~~and not as tenants in common~~ and not as transfer on death, is presumed.”

Section 7. Section 61-3-204, MCA, is amended to read:

“61-3-204. Replacement certificate of title – application. (1) ~~(a)~~ If a certificate of title is lost, stolen, destroyed, mutilated, or becomes illegible or if the owner wants to update personal information on the electronic record of title or have a replacement certificate of title issued with updated information, the owner, as shown on the electronic record of title, may apply for and request the department to issue a replacement certificate of title. The application must include satisfactory evidence of the facts requiring the replacement certificate of title and be accompanied by a fee of \$10.

~~(b)~~(2) The amount of \$5 of the fee must be deposited in the state general fund in accordance with 15-1-504, and the remaining \$5 must be deposited in the motor vehicle information technology system account provided for in 61-3-550.

~~(c)~~(3) Beginning July 1, 2026, the fee for a replacement certificate of title is \$5 and the entire fee must be deposited in the state general fund:

~~(2) Each replacement certificate of title issued by the department must contain the following statement: “This replacement voids any previously issued title.”~~

Section 8. Section 61-3-210, MCA, is amended to read:

“61-3-210. Definitions. As used in this part, the following definitions apply:

(1) “Cab” means the passenger compartment of a truck or pickup truck. It is a unit of construction that includes the top or roof and the cowl and may or may not include glass, instrumentation, the steering column, and a seat or seats.

(2) “Center structure” includes the section of either a unibody or frame-type passenger motor vehicle that consists of a unit of sheet metal that extends from the firewall to the back of the rear seat or the centerline of the rear wheels. The structure may comprise the roof, side and rear window posts, cowl panel, dash panel, floor pans, doors, and rocker panels if two or more of these parts are assembled together as one unit.

(3) “Component part” means the front-end assembly, center structure, or tail section of an automobile, the cab of a truck, the bed of a 1-ton or lighter truck, the frame of a motor vehicle, or any part of a motor vehicle that contains a vehicle identification number or a derivative of a vehicle identification number.

(4) “*Financial institution*” means a bank or credit union that is federally insured.

~~(4)~~(5) “Frame” means the structure that supports the automobile body and other external component parts.

~~(5)~~(6) “Front-end assembly” includes the hood, right front and left front fenders, grill, bumper, and radiator supports if two or more of these parts are assembled together as one unit forward of the firewall.

~~(6)~~(7) “Salvage certificate” means a certificate of title issued by the department for a salvage vehicle that may be used to retitle the motor vehicle.

(7)(8) “Salvage vehicle” means a motor vehicle damaged by collision, fire, flood, accident, trespass, or other occurrence to the extent that the owner, an insurer, or another person acting on behalf of the owner determines that the cost of parts and labor makes it uneconomical to repair the vehicle.

(8)(9) “Salvage vehicle purchaser” means a person, other than an insurer, who purchases or otherwise obtains possession of a salvage vehicle.

(9)(10) “Tail section” includes the floor pan, right rear and left rear quarter panels, deck lid, upper rear and lower rear panels, and rear bumper if two or more of these parts are assembled together as one unit.”

Section 9. Section 61-3-217, MCA, is amended to read:

“61-3-217. Certificate of title – duties – examination of application – records check – incomplete application. (1) (a) Upon receipt of an application for a certificate of title and any supporting documents, an authorized agent of the department or a county treasurer shall:

(i) review the application and documents;

(ii) complete the records check required in subsection (2); and

(iii) if an authorized agent of the department or the county treasurer is satisfied as to the genuineness and regularity of the application and satisfied that the applicant is entitled to the issuance of a certificate of title, enter the transfer of interest on the electronic record of title.

(b) If an authorized agent of the department or the county treasurer is not satisfied as to the genuineness and regularity of the application or is not satisfied that the applicant is entitled to the issuance of a certificate of title, the authorized agent or the county treasurer may not enter the transfer of interest on the electronic record of title.

(c) If an authorized agent of the department or the county treasurer enters the transfer of interest on the electronic record of title, an authorized agent or the county treasurer shall:

(i) issue a transaction summary receipt to the applicant and, if requested, to any secured party or lienholder with a perfected security interest; and

(ii) as prescribed by the department, forward to the department the application, the assigned certificate of title, and any other documents provided in support of the application.

(2) The department, its authorized agent, or a county treasurer who first receives an application for a certificate of title shall check the vehicle identification number shown on the application against:

(a) the records of motor vehicles, trailers, semitrailers, pole trailers, campers, motorboats, personal watercraft, sailboats, or snowmobiles maintained by the department under 61-3-101;

(b) the reported stolen motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile databases maintained on the state’s criminal justice information network and by the national crime information center; and

(c) any other records or databases prescribed by the department.

(3) (a) Upon receipt of an application for a certificate of title and supporting documents that have been processed by an authorized agent of the department or a county treasurer, the department shall review the documents to determine if the application is complete. If the department determines that the application is incomplete, the department shall enter the incomplete status of the application on the electronic record of title for the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile and *may* return to the applicant, *electronically or* by first-class mail, the application and all supporting documents. The department shall provide a statement with a specific description of the additional information or

documents that must be supplied by the applicant to complete the application process.

(b) The department may not complete the application process, remove the incomplete status notation on the electronic record of title, or issue a certificate of title until the applicant returns the completed application, including any supporting additional information or documents, to the department.”

Section 10. Section 61-3-220, MCA, is amended to read:

“61-3-220. Certificate of title – voluntary transfer – duties. (1) Upon the voluntary transfer of any interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile for which a certificate of title was issued under the provisions of this chapter, the owner whose interest is to be transferred shall:

(a) authorize, in writing and on a form prescribed by the department, an authorized agent, or a county treasurer, to enter the transfer of the owner’s interest in the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile to the transferee on the electronic record of title maintained under 61-3-101; or

(b) execute a transfer in the appropriate space provided on the certificate of title issued to the owner and deliver the assigned certificate of title to:

(i) the transferee at the time of delivery of the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile; or

(ii) the department, its authorized agent, or a county treasurer if an application for a certificate of title has been completed by the transferee and accompanies the assigned certificate of title.

(2) When transfer occurs between individuals, the transferor’s signature on the certificate of title, or the form authorizing transfer of interest upon the electronic record of title, must be acknowledged before the county treasurer, a deputy county treasurer, an elected official authorized to acknowledge signatures, ~~or an employee or authorized agent of the department, or a notary public.~~

(3) Except as provided in 61-4-111, the person to whom an interest in a motor vehicle has been transferred shall:

(a) execute an application for a certificate of title in the space provided on the assigned certificate of title or as prescribed by the department;

(b) request the return of the original title for vehicles 30 years or older, or whose certificates of title were removed from department records pursuant to 61-3-227, on a form prescribed by the department; and

(c) within 40 days after the interest in the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile was transferred to the person, either:

(i) apply for a certificate of title under 61-3-216 and register the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile under 61-3-303; or

(ii) subject to the limitations of 61-3-312, register the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile without the surrender of a previously assigned certificate of title and application for certificate of title under 61-3-303.

(4) If the person to whom an interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile has been transferred fails to comply with the requirements described in subsection (3) within the 40-day grace period, a late penalty of \$10 must be imposed against the transferee. The penalty must be paid before the transferee registers the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat,

personal watercraft, sailboat, or snowmobile in this state, with or without the surrender of an assigned certificate of title. The penalty is in addition to the fees otherwise provided by law.

(5) If the transferee does not comply with the requirements of subsection (3) within the 40-day grace period, a secured party or lienholder of record may pay the fees for the transfer of title and for filing a voluntary security interest or lien. The secured party or lienholder is not liable for the late penalty imposed in subsection (4) or for registration fees, taxes, or fees in lieu of tax on the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile.

(6) The department may adopt rules for the transfer of vehicles in this section."

Section 11. Section 61-3-224, MCA, is amended to read:

"61-3-224. Temporary registration permit – issuance – placement – fees. (1) (a) The department, an authorized agent, or a county treasurer may issue a temporary registration permit for any purpose authorized under the rules adopted by the department.

(b) An authorized agent or a county treasurer may issue a temporary registration permit without use of the department-approved electronic interface only if authorized by the department.

(2) A person, using a department-approved electronic interface, may issue a temporary registration permit for any purpose authorized under the rules adopted by the department.

(3) A temporary registration permit issued under this section must contain the following information:

(a) a temporary plate number as prescribed by the department;

(b) the expiration date of the temporary registration permit; and

(c) if required by the department, a description of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile, including year, make, model, and vehicle identification number, the name of the person from whom ownership of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile was transferred, the name, mailing address, and residence address of the person to whom ownership of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile has been transferred, and the date of issuance.

(4) A temporary registration permit for:

(a) a motor vehicle, trailer, semitrailer, or pole trailer must be plainly visible and firmly attached to the rear exterior of the vehicle where a license plate is required to be displayed; and

(b) a motorboat, a sailboat that is 12 feet in length or longer, a snowmobile, or an off-highway vehicle must be plainly visible and firmly attached to the vehicle or vessel.

(5) (a) Except as provided in 61-3-431 and subsections (5)(b) and (5)(c) of this section, a \$19.50 fee is imposed upon issuance of a temporary registration permit by the department, an authorized agent, or a county treasurer. The fee must be paid by the owner of the vehicle or vessel and collected by the department, the authorized agent, or a county treasurer ~~when the vehicle is registered~~ *at the time of sale*.

(b) Except as provided in 61-3-431, a fee of \$24.50 is imposed and must be paid upon issuance of a temporary registration permit by:

(i) the department, an authorized agent, or a county treasurer to a nonresident of this state who acquires a vehicle or vessel in this state or who

registers for temporary use in this state a quadricycle or motorcycle designed for off-road recreational use; or

(ii) a person who issued a temporary registration permit using a department-approved electronic interface.

(c) A fee of \$24 is imposed and must be paid upon issuance of a temporary registration permit for a 90-day temporary registration permit as provided in 61-3-303(4)(b).

(6) The fees imposed under this section, upon collection, must be forwarded to the state and deposited as follows:

(a) \$16.50 from each permit fee collected pursuant to subsection (5) in the state special revenue account established in 44-10-204; and

(b) the remainder in the motor vehicle electronic commerce operating account provided for in 61-3-118.

(7) If a temporary registration permit is issued under this section to a person to whom ownership of a vehicle or vessel has been transferred, the permitholder shall title and register the vehicle or vessel in this or another jurisdiction before the ownership of the vehicle or vessel may be transferred to another person."

Section 12. Section 61-3-303, MCA, is amended to read:

"61-3-303. Original registration -- process -- fees. (1) Except as provided in 61-3-324, a Montana resident who is an owner of a motor vehicle, trailer, semitrailer, or pole trailer operated or driven upon the public highways of this state shall register the motor vehicle, trailer, semitrailer, or pole trailer in the county where the registering owner is domiciled. A nonresident who has an interest in real property in Montana may register in the county where the real property is located a motor vehicle, trailer, semitrailer, or pole trailer operated or driven upon the public highways of this state. A person serving or retired from serving aboard the USS Montana may register by mail in Lewis and Clark County *or electronically* using forms prescribed by the department.

(2) A Montana resident who is an owner of a motor vehicle, trailer, semitrailer, or pole trailer with co-owners, one or more of whom are not Montana residents, may register the vehicle regardless of the fact that one or more of the co-owners would otherwise not qualify to register the vehicle under subsection (1) if the registering Montana resident is:

(a) an individual human being; and

(b) the principal operator of, and in whom is vested the right of possession and control of, the vehicle.

(3) Except as provided in subsection (4), the county treasurer or an authorized agent shall register any vehicle for which:

(a) as of the date that the motor vehicle, trailer, semitrailer, or pole trailer is to be registered, an owner delivers an application for a certificate of title to the department, an authorized agent, or a county treasurer; or

(b) the county treasurer or an authorized agent confirms that the department has an electronic record of title for the motor vehicle, trailer, semitrailer, or pole trailer as provided under 61-3-101.

(4) (a) A county treasurer or an authorized agent may register a motor vehicle, trailer, semitrailer, or pole trailer for which a certificate of title and registration were issued in another jurisdiction and for which registration is required under 61-3-701 after the county treasurer or the authorized agent examines the current out-of-jurisdiction registration certificate or receipt and receives payment of the fees required in 61-3-701. The county treasurer or an authorized agent may ask the motor vehicle, trailer, semitrailer, or pole trailer owner to provide additional information, prescribed by the department, to ensure that the electronic record of registration maintained by the department is complete.

(b) A county treasurer or an authorized agent shall collect fees pursuant to 61-3-203 and 61-3-220(4) and issue a 90-day temporary registration permit pursuant to 61-3-224 for a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for which the new owner cannot, due to circumstances beyond the new owner's control, surrender a previously assigned certificate of title. The new owner shall request the 90-day temporary registration permit from the authorized agent or county treasurer that originally issued the temporary registration permit.

(c) A person serving or retired from serving aboard the USS Montana shall include in an application for a certificate of title, in a manner prescribed by the department, proof that the person has current orders to serve or has previously served aboard the USS Montana.

(5) Upon registering a motor vehicle, trailer, semitrailer, or pole trailer for the first time in this state, the county treasurer or an authorized agent shall:

(a) update the electronic record of title, if any, maintained for the vehicle by the department under 61-3-101;

(b) assign a registration period for the vehicle under 61-3-311;

(c) determine the vehicle's age, if required, under 61-3-501;

(d) determine the amount of fees, including local option taxes or fees, to be paid under subsection (6); and

(e) assign and issue license plates for the vehicle under 61-3-331.

(6) Unless otherwise provided by law, a person registering a motor vehicle shall pay to the county treasurer or an authorized agent:

(a) the fees in lieu of tax or registration fees as required for:

(i) a light vehicle under 61-3-321 or 61-3-562, in addition to, if applicable, any local option tax or fee under 61-3-537 or 61-3-570;

(ii) a motor home under 61-3-321;

(iii) a travel trailer under 61-3-321;

(iv) a motorcycle or quadricycle under 61-3-321;

(v) a bus, a truck having a manufacturer's rated capacity of more than 1 ton, or a truck tractor under 61-3-321 and 61-3-529; or

(vi) a trailer under 61-3-321;

(b) a donation of \$1 or more if the person indicates that the person wishes to donate to promote awareness and education efforts for procurement of organ and tissue donations in Montana to favorably impact anatomical gifts;

(c) a donation of \$1 or more if the person indicates that the person wishes to donate to promote education on, support for, and awareness of traumatic brain injury; and

(d) a donation of \$1 or more if the person indicates that the person wishes to donate to a program supporting cancer screening.

(7) The county treasurer or an authorized agent may not issue a registration receipt or license plates for the motor vehicle, trailer, semitrailer, or pole trailer to the owner unless the owner makes the payments required by subsection (6).

(8) The department may make full and complete investigation of the registration status of the motor vehicle, trailer, semitrailer, or pole trailer. A person seeking to register a motor vehicle, trailer, semitrailer, or pole trailer under this section shall provide additional information to support the registration to the department if requested.

(9) Revenue that accrues from the voluntary donations provided for in subsection (6) must be forwarded by the respective county treasurer or an authorized agent to the department for deposit as follows:

(a) in the state special revenue fund to the credit of an account established by the department of labor and industry to support activities related to awareness

and education efforts for procurement of organ and tissue donations for anatomical gifts if the revenue is from the donation provided for in subsection (6)(b);

(b) to the credit of the account established in 2-15-2218 if the revenue is from the donation provided for in subsection (6)(c); and

(c) to the credit of the special revenue account established in 33-22-2104 if the revenue is from the donation provided for in subsection (6)(d).

(10) (a) Except as provided in subsection (10)(b), the fees in lieu of tax, taxes, and fees imposed on or collected from the registration of a travel trailer, motorcycle, or quadricycle or a trailer, semitrailer, or pole trailer that has a declared weight of less than 26,000 pounds are required to be paid only once during the time that the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is owned by the same person who registered the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer. When registered, a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is registered permanently unless ownership is transferred or unless it was registered under 61-3-701.

(b) Whenever ownership of a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is transferred, the new owner is required to register the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer as if it were being registered for the first time, including paying all of the required fees in lieu of tax, taxes, and fees.

(11) The department, an authorized agent of the department, or a county treasurer shall use the online motor vehicle liability insurance verification system provided in 61-6-157 to verify that the vehicle owner has complied with the requirements of 61-6-301."

Section 13. Section 61-3-321, MCA, is amended to read:

"61-3-321. Registration fees of vehicles and vessels -- certain vehicles exempt from registration fees -- disposition of fees -- definition.

(1) Except as otherwise provided in this section, registration fees must be paid upon registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers, semitrailers, and pole trailers as provided in subsections (2) through (20).

(2) (a) Except as provided in subsection (2)(b), unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light vehicles, trucks, and buses that weigh 1 ton or less and for logging trucks that weigh 1 ton or less is as follows:

- (i) if the vehicle is 4 or less years old, \$217;
- (ii) if the vehicle is 5 through 10 years old, \$87; and
- (iii) if the vehicle is 11 or more years old, \$28.

(b) For a light vehicle with a manufacturer's suggested retail price of more than \$150,000 that is 10 years old or less, the annual registration fee is the amount provided for in subsection (2)(a) plus \$825.

(3) (a) Except as provided in subsections (3)(b) and (15), the one-time registration fee based on the declared weight of a trailer, semitrailer, or pole trailer is as follows:

- (i) if the declared weight is less than 6,000 pounds, \$61.25; or
- (ii) if the declared weight is 6,000 pounds or more, \$148.25.

(b) For a trailer, semitrailer, or pole trailer that is registered under 61-3-701, the annual registration fee based on the declared weight is as follows:

- (i) if the declared weight is less than 6,000 pounds, \$30; or
- (ii) if the declared weight is 6,000 pounds or more, \$60.

(4) Except as provided in subsection (15), the one-time registration fee for motor vehicles owned and operated solely as collector's items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:

(a) 2,850 pounds and over, \$10; and

(b) under 2,850 pounds, \$5.

(5) (a) Except as provided in subsections (5)(b) and (15), the one-time registration fee for off-highway vehicles other than a quadricycle or motorcycle is \$61.25.

(b) Whenever a valid summer motorized recreation trail pass issued pursuant to 23-2-111 is affixed to an off-highway vehicle other than a quadricycle or motorcycle, the one-time registration fee is \$41.25.

(6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.

(7) (a) Except as provided in subsection (7)(c), the annual registration fee for a motor home, based on the age of the motor home, is as follows:

(i) less than 2 years old, \$282.50;

(ii) 2 years old and less than 5 years old, \$224.25;

(iii) 5 years old and less than 8 years old, \$132.50; and

(iv) 8 years old and older, \$97.50.

(b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee under this section may permanently register the motor home upon payment of:

(i) a one-time registration fee of \$237.50;

(ii) unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be deposited in the account established under 61-6-158;

(iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406; and

(iv) if applicable, the donation fee for a generic specialty license plate under 61-3-480 or a collegiate license plate under 61-3-465.

(c) For a motor home with a manufacturer's suggested retail price of more than \$300,000 that is 10 years old or less, the annual registration fee is the amount provided in subsection (7)(a) plus \$800.

(8) (a) (i) Except as provided in subsections (8)(b), (8)(c), and (15), the one-time registration fee for motorcycles and quadricycles registered for use on the public highways is \$53.25, the one-time registration fee for motorcycles and quadricycles registered for off-highway use is \$53.25, and the one-time registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways is \$114.50.

(ii) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(b) (i) The annual registration fee for motorcycles and quadricycles registered for use on the public highways under 61-3-701 is \$44.

(ii) The annual registration fee for motorcycles and quadricycles registered for off-highway use under 61-3-701 is \$44.

(iii) The annual registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways under 61-3-701 is \$88.

(iv) An additional safety fee of \$7 must be collected annually for each motorcycle or quadricycle registered under 61-3-701. The safety fee must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(c) Whenever a valid summer motorized recreation trail pass issued pursuant to 23-2-111 is affixed to a motorcycle or quadricycle, the one-time registration fee for motorcycles and quadricycles registered for:

(i) use on the public highways is \$33.25; and

(ii) both off-road use and for use on the public highways is \$94.50.

(9) Except as provided in subsection (15), the one-time registration fee for travel trailers, based on the length of the travel trailer, is as follows:

(a) under 16 feet in length, \$72; and

(b) 16 feet in length or longer, \$152.

(10) Except as provided in subsection (15), the one-time registration fee for a motorboat, sailboat, personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:

(a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length, \$65.50;

(b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in length, \$125.50; and

(c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.

(11) (a) Except as provided in subsections (11)(b), (11)(c), and (15), the one-time registration fee for a snowmobile is \$60.50.

(b) Whenever a valid winter trail pass issued pursuant to 23-2-636 is affixed to a snowmobile, the one-time registration fee is \$40.50.

(c) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose of daily rental to customers is assessed:

(A) a fee of \$40.50 in the first year of registration; and

(B) if the business reregisters the snowmobile for a second year, a fee of \$20.

(ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently registered and the business is assessed the registration fee imposed in subsection (11)(a).

(12) (a) The one-time registration fee for a low-speed electric vehicle is \$25.

(b) The one-time registration fee for a golf cart that is owned by a person who has or is applying for a low-speed restricted driver's license is \$25.

(c) The one-time registration fee for golf carts authorized to operate on certain public streets and highways pursuant to 61-8-391 is \$25. Upon receipt of the fee, the department shall issue the owner a decal, which must be displayed visibly on the golf cart.

(13) (a) Except as provided in subsection (13)(b), a fee of \$12 must be collected when a new set of standard license plates, a new single standard license plate, or a replacement set of special license plates required under 61-3-332 is issued. The fee imposed under this subsection (13)(a) does not apply when previously issued license plates are transferred under 61-3-335. All registration fees imposed under this section must be paid if the vehicle to which the plates are transferred is not currently registered.

(b) An additional fee of \$16 must be collected if a vehicle owner elects to keep the same license plate number from license plates issued before January 1, 2010, when replacement of those plates is required under 61-3-332(3).

(c) The fees imposed in this subsection (13) must be deposited in the account established under 61-6-158, except that \$2 of the fee imposed in subsection (13)(a) must be deposited in the state general fund.

(14) The provisions of this part with respect to the payment of registration fees do not apply to and are not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(d), (1)(e), (1)(g), (1)(h), (1)(i), (1)(k), (1)(l), (1)(n), or (1)(o), 15-6-203, or 15-6-215, except as provided in 61-3-520.

(15) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle, quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile, motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411, or low-speed electric vehicle is transferred, the new owner shall title and register the vehicle or vessel as required by this chapter and pay the fees imposed under this section.

(16) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

(17) Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund.

(18) The fees imposed by subsections (2) through (12) are not required to be paid by a dealer for the enumerated vehicles or vessels that constitute inventory of the dealership.

(19) (a) Unless a person exercises the option in either subsection (19)(b) or (19)(c), an additional fee of \$9 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. Of the \$9 fee:

(i) \$6.74 must be deposited in the state special revenue account established in 23-1-105 and used for state parks;

(ii) 50 cents must be deposited in an account in the state special revenue fund to the credit of the department of fish, wildlife, and parks and used for fishing access sites;

(iii) \$1.37 must be deposited in the trails and recreation facilities state special revenue account established in 23-2-108; and

(iv) 39 cents must be deposited in the Montana heritage preservation and development account established in 22-3-1004 and used for the operation of state-owned facilities at Virginia City and Nevada City.

(b) A person who registers a light vehicle may, at the time of annual registration, certify that the person does not intend to use the vehicle to visit state parks and fishing access sites and may make ~~a written~~ *an* election not to pay the additional \$9 fee provided for in subsection (19)(a). If ~~a written~~ *an* election is made, the fee may not be collected.

(c) (i) A person who registers one or more light vehicles may, at the time of annual registration, certify that the person does not intend to use any of the vehicles to visit state parks and fishing access sites and may make ~~a written~~ *an* election not to pay the additional \$9 fee provided for in subsection (19)(a). If ~~a written~~ *an* election is made, the fee may not be collected at any subsequent annual registration unless the person makes the ~~written~~ election to pay the additional fee on one or more of the light vehicles.

(ii) The ~~written~~ election not to pay the additional fee on a light vehicle expires if the vehicle is registered to a different person.

(20) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle, quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$10 must be collected and forwarded to the state for deposit in the account established in 44-1-504.

(21) (a) If a person exercises the option in subsection (21)(b), an additional fee of \$5 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in an account in the state special revenue fund. Funds in the account are statutorily appropriated, as provided in 17-7-502, to the department of transportation and must be allocated as provided in 60-3-309.

(b) A person who registers one or more light vehicles may, at the time of annual registration, make ~~a written or electronic~~ *an* election to pay the additional \$5 fee provided for in subsection (21)(a).

(22) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by 61-3-721.

(23) (a) The \$800 and \$825 amounts collected based on the manufacturer's suggested retail price in subsections (2) and (7) are exempt from the provisions of 15-1-122 and must be deposited in the motor vehicle division administration account established in 61-3-112.

(b) By August 15 of each year, beginning in the fiscal year beginning July 1, 2019, the department of justice shall deposit into the general fund an amount equal to the fiscal yearend balance minus 25% of the current fiscal year appropriation for the account established in 61-3-112.

(24) *An election made pursuant to this section may be made in writing or electronically.*

(24)(25) For the purposes of this section, "manufacturer's suggested retail price" means the price suggested by a manufacturer for each given type, style, or model of a light vehicle or motor home produced and first made available for retail sale by the manufacturer."

Section 14. Section 61-3-401, MCA, is amended to read:

"61-3-401. Definition of personalized license plates. *As used in this part, the following definitions apply:*

(1) (a) "Collector reproduction license plate" means a license that is a reproduction of the original license plate issued according to the provisions of 61-3-331, section 53-116, R.C.M. 1947, section 1759.1, R.C.M. 1935, or section 1759, R.C.M. 1921, whichever section was effective during the year of the manufacture of the motor vehicle, trailer, semitrailer, or pole trailer on which the license plate is authorized to be displayed.

(b) *To qualify as a collector reproduction license plate, the reproduction plate must:*

- (i) *be made of metal;*
- (ii) *be the same size and color as the original license plate; and*
- (iii) *have the same design, including any embossed or raised letters or numbers, as the original license plate.*

(2) "Collegiate license plates" means license plates bearing the colors, numerals, letters, and insignia provided in 61-3-463 and issued as provided in 61-3-464 through 61-3-466.

(3) "General transportation collector's item" means a motor vehicle, trailer, semitrailer, or pole trailer that is 25 years old or older and that is used for general transportation purposes.

(4) "Generic specialty license plate" means a license plate that bears the name, identifying phrase, or graphic of a sponsor, approved by the department, and that is issued by the department.

(5) "Governmental body" means a tribal government, state agency, local government, school district, or other political subdivision within this state.

(6) "Institution" means:

- (a) *a unit of the Montana university system as designated in 20-25-201;*
- (b) *a community college district as defined in 20-15-101; or*
- (c) *a college or university located in Montana and accredited by a national or regional accrediting association for institutions of higher learning to grant baccalaureate degrees.*

(7) “Naval support license plate” means a license plate:

(a) sponsored by an incorporated body promoting the commissioning of a United States navy ship or the welfare of the crew of a United States navy ship named in association with Montana;

(b) with a design and content approved by the department, and with a numbering system conforming to generic specialty license plates that is distinctive from the numbering system required under 61-3-332 or used for collegiate license plates; and

(c) treated as a generic specialty license plate for the purposes of 61-3-475 through 61-3-481.

(8) “Organization” means an association, corporation, group, or other entity:

(a) recognized by the internal revenue service as tax-exempt under 26 U.S.C. 501(c)(3); and

(b) that does not have as its primary focus sectarian activities, including but not limited to activities aimed at promoting the adoption of one or more religious or political viewpoints.

(9) “Original Montana license plate” means a license plate issued according to the provisions of 61-3-331, section 53-116, R.C.M. 1947, section 1759.1, R.C.M. 1935, or section 1759, R.C.M. 1921, whichever section was effective during the year of the manufacture of the motor vehicle, trailer, semitrailer, or pole trailer on which the license plate is authorized to be displayed.

(10) “Personalized license plates”, ~~as used in 61-3-401 through 61-3-406,~~ ~~are~~ means license plates that are specially produced and display a specific combination of letters or numbers, or both, expressly requested by the owner of the passenger motor vehicle.

(11) “Sponsor” means the governmental body, the governmental body’s successor, or an organization approved by the department to promote the sale and issuance of a generic specialty license plate.

(12) “Tribal government” means the officially recognized government of an Indian tribe, nation, or other organized Indian group or community located in the state that is exercising self-government powers and that is recognized as being eligible for services provided by the United States to Indians because of their status as Indians.”

Section 15. Section 61-3-405, MCA, is amended to read:

“61-3-405. Application for personalized plates. An applicant for personalized license plates ~~or renewal of such plates in subsequent years pursuant to 61-3-401 through 61-3-406~~ shall file an application therefor in the form and by the date the department requires; indicating ~~thereon~~ the combination of letters or numbers, or both, requested as a registration number. There ~~shall may not be no~~ a duplication of registration numbers, and the department may refuse to issue any combination of letters or numbers, or both, that may carry connotations offensive to good taste and decency or ~~which~~ ~~that~~ are misleading or a duplication of license plates provided for elsewhere in this title.”

Section 16. Section 61-3-412, MCA, is amended to read:

“61-3-412. Display of original Montana license plates or collector reproduction license plates on collector’s item and general transportation collector’s item motor vehicles – definitions – validation. (1) As used in 61-3-413 and this section, the following definitions apply:

(a) “Collector reproduction license plate” means a license that is a reproduction of the original license plate issued according to the provisions of 61-3-331, section 53-116, R.C.M. 1947, section 1759.1, R.C.M. 1935, or section 1759, R.C.M. 1921; whichever section was effective during the year

of the manufacture of the motor vehicle, trailer, semitrailer, or pole trailer on which the license plate is authorized to be displayed. To qualify as a collector reproduction license plate, the reproduction plate must be made of metal, must be the same size and color as the original license plate, and must have the same design, including any embossed or raised letters or numbers, as the original license plate.

(b) “Original Montana license plate” means a license plate issued according to the provisions of 61-3-331, section 53-116, R.C.M. 1947; section 1759.1, R.C.M. 1935; or section 1759, R.C.M. 1921; whichever section was effective during the year of the manufacture of the motor vehicle, trailer, semitrailer, or pole trailer on which the license plate is authorized to be displayed.

(2)(1) Notwithstanding the provisions of 61-3-332, the department shall authorize the owner of a motor vehicle, trailer, semitrailer, or pole trailer registered as provided in 61-3-411 or 61-3-413 to display original Montana license plates or collector reproduction license plates, with validation as required in 61-3-413 or subsection (4)(3) of this section, after:

(a) payment of the fee required in subsection (6);

(b) inspection by a highway patrol officer of the original Montana license plate or collector reproduction license plate to be displayed on the motor vehicle, trailer, semitrailer, or pole trailer and, upon payment of a \$5 fee, receipt of the highway patrol officer's certification that the officer has determined that:

(i) the license plate is legible and meets the requirements of subsection (1) 61-3-401; and

(ii) in the case of a license plate intended for use on a general transportation collector's item, the license plate is visible at night;

(c) receipt of an application by the owner of the motor vehicle, trailer, semitrailer, or pole trailer as provided for in 61-3-411 or 61-3-413; and

(d) in the case of a general transportation collector's item application, certification from the department that a duplicate license plate number does not exist among currently issued license plates.

(3)(2) The owner of a motor vehicle, trailer, semitrailer, or pole trailer manufactured in the year 1948, 1949, or 1950 may display a single original Montana license plate that is affixed to the rear of the vehicle. The original Montana license plate must be legible and must bear the year that matches the year in which the vehicle was manufactured.

(4)(3) If the owner of a motor vehicle, trailer, semitrailer, or pole trailer meets the requirements of subsection (2) (1), the department shall:

(a) register the motor vehicle, trailer, semitrailer, or pole trailer as prescribed in 61-3-303; and

(b) issue a validating decal inscribed with:

(i) a unique number; and

(ii) the letter:

(A) “P” to designate motor vehicles, trailers, semitrailers, or pole trailers described in 61-3-411(2)(a); or

(B) “V” to designate motor vehicles, trailers, semitrailers, or pole trailers described in 61-3-411(2)(b).

(5)(4) The owner of the motor vehicle, trailer, semitrailer, or pole trailer shall permanently affix the validating decal to the windshield of the collector's item motor vehicle, trailer, semitrailer, or pole trailer or, if a windshield does not exist, to another prominent and visible position on the motor vehicle, trailer, semitrailer, or pole trailer.

(6)(5) The owner of the motor vehicle, trailer, semitrailer, or pole trailer shall pay to the department with the application required under this section a one-time special collector's item motor vehicle, trailer, semitrailer, or pole trailer license fee of \$20.”

Section 17. Section 61-3-413, MCA, is amended to read:

“61-3-413. Registration of motor vehicle as general transportation collector’s item – definition – permanent registration required. (1) For the purposes of 61-3-412 and this section, a “general transportation collector’s item” is a motor vehicle, trailer, semitrailer, or pole trailer that is 25 years old or older and that is used for general transportation purposes.

(2)(1) An owner of a general transportation collector’s item who wishes to display original Montana license plates or collector reproduction license plates on the motor vehicle, trailer, semitrailer, or pole trailer shall file with the department an application for the registration of the motor vehicle, trailer, semitrailer, or pole trailer. The application must state:

(a) the name and address of the owner;

(b) the year and number of the license plate the applicant wishes to use; and

(c) the make, the gross weight, the year and number of the model, and the manufacturer’s identification number and serial number of the motor vehicle, trailer, semitrailer, or pole trailer.

(3)(2) Upon receipt of an application for registration of a general transportation collector’s item that will display an original Montana license plate, the department shall compare the number of the license plate that the applicant intends to use with the license plate numbers assigned to currently registered motor vehicles, trailers, semitrailers, or pole trailers. The department may reject an application if the number the applicant intends to use matches a number that is assigned to a currently registered motor vehicle, trailer, semitrailer, or pole trailer. If the department approves the application, the department shall file the application and register the motor vehicle, trailer, semitrailer, or pole trailer in the manner specified in 61-3-101.

(4)(3) Upon receipt of an application for registration of a general transportation collector’s item that will display a collector reproduction license plate, the department shall determine a distinctive license plate number to be assigned to the collector reproduction license plate. The department may:

(a) issue a new license plate number following the requirements for issuing distinctive license plate numbers under 61-3-331;

(b) issue a new personalized license plate number under 61-3-401 through 61-3-406; or

(c) at the request of the owner, transfer a license plate number that is already assigned to the general transportation collector’s item or another motor vehicle owned by the owner of the general transportation collector’s item.

(5)(4) The general transportation collector’s item owner may take the license plate number issued pursuant to subsection (4)(3) and purchase a collector reproduction license plate from any source.

(6)(5) The one-time application fee for a collector reproduction license plate under subsection (4) is \$50. The fee must be deposited as follows:

(a) \$25 must be deposited into the state special revenue account to partially fund highway patrol officers’ salaries established in 44-1-504; and

(b) \$25 must be deposited into the motor vehicle division administration account established in 61-3-112.

(7)(6) Once an application is approved, appropriate fees are paid, and the requirements provided in 61-3-412(2) are met, an owner of a general transportation collector’s item shall permanently register the motor vehicle, trailer, semitrailer, or pole trailer as provided in 61-3-562 and shall display on the motor vehicle’s, trailer’s, semitrailer’s, or pole trailer’s license plate a decal indicating that the motor vehicle, trailer, semitrailer, or pole trailer has been permanently registered.”

Section 18. Section 61-4-101, MCA, is amended to read:

“61-4-101. Types of licenses and terms – common application – bonds – zoning. (1) Except as provided in 61-4-120 and 61-4-125, a person may not engage in the business of buying, selling, exchanging, accepting on consignment, or acting as a broker of a motor vehicle, trailer, travel trailer, semitrailer, pole trailer, motorcycle, quadricycle, motorboat, personal watercraft, snowmobile, off-highway vehicle, or special mobile equipment that is not registered in the person's name unless the person is the holder of a license issued by the department under this part.

(2) (a) The department may issue a new dealer's license, a used dealer's license, a broker's license, an auto auction license, or a wholesaler license to any person it determines is qualified to hold the license under the provisions of this section.

(b) A new dealer's license authorizes the holder to sell:

(i) any new motor vehicle, new power sports vehicle, or new trailer that is covered under a franchise agreement between the holder and the manufacturer, importer, or distributor of the line of vehicle or trailer offered for sale; and

(ii) any used motor vehicle, used power sports vehicle, or used trailer.

(c) A used dealer license authorizes the holder to sell any used motor vehicle, used power sports vehicle, or used trailer.

(d) A broker's license authorizes the holder to negotiate the purchase, sale, or exchange of a motor vehicle, power sports vehicle, or trailer from a dealer or another person upon behalf of a client when the broker does not store, display, or take ownership of the motor vehicle, power sports vehicle, or trailer being purchased, sold, or exchanged.

(e) Except as provided in 61-4-120, an auto auction license authorizes the holder to take possession of a used vehicle owned by another person through consignment, bailment, or any other arrangement and to sell to the highest bidder when all bidders are licensed vehicle dealers, wholesalers, or wrecking facilities.

(f) A wholesaler license authorizes the holder to sell used vehicles to a new or used vehicle dealer, an auto auction, or another wholesaler.

(3) Dealer license expiration dates must be staggered throughout the year *in a manner prescribed by the department*.

(4) Subject to the provisions of 61-4-120, 61-4-124, and 61-4-125, a license issued by the department is valid until:

(a) voluntarily returned to the department for surrender and cancellation upon the cessation of the licensee's business operations; or

(b) suspended or revoked for a violation of this chapter or any other laws relating to the sale of motor vehicles, power sports vehicles, or trailers.

(5) (a) An applicant for a new dealer's license, a used dealer's license, a broker's license, an auto auction license, or a wholesaler license shall submit a written application to the department. The application must be signed by the applicant and contain a verification by the applicant, under penalty of law, that the information contained in the application is true and correct. Any information provided in the license application process is subject to independent verification by the department or an authorized representative of the department.

(b) After examining a license application and conducting an investigation necessary to verify the information contained in the application and if the department is satisfied that the applicant qualifies for the issuance of a license under the provisions of this chapter, the department may issue the license. The department may refuse, after examination and investigation, to issue a license

to an applicant who is not qualified for licensure or whose prior financial or other activities or criminal record, as determined by the department:

(i) poses a threat to the effective regulation of dealers, wholesalers, or auto auctions;

(ii) poses a threat to the public interest of the state; or

(iii) creates a danger of illegal or deceptive practices being used in the conduct of the proposed dealership, wholesaler, or auto auction.

(6) To be qualified for licensure, an applicant shall provide to the department the following information:

(a) the name under which the applicant intends to conduct business and the applicant's name, the street address and, if different, mailing address for the business, and customer identification number;

(b) the name, date of birth, and social security number of any person who:

(i) possesses or will possess an ownership interest in the business for which the license is sought;

(ii) is a corporate officer or the managing member of a business entity applying for the license; or

(iii) is or will be designated by the applicant to manage or oversee the applicant's business;

(c) for each person subject to the provisions of subsection (6)(b), information concerning whether the person has:

(i) an ownership interest in a vehicle dealership, an auto auction, or a wholesaler business in Montana or any other state and, if so, the name and address of each dealership, auto auction, or wholesaler; and

(ii) been found guilty of, or pleaded guilty to, a felony in this or any other jurisdiction and, if so, shall provide a summary of the conduct resulting in the felony charge, including the dates of the conduct and any court proceedings pertaining to the conduct and the name and address of any court in which the matter was heard;

(d) the name, address, and telephone number of the insurance carrier from whom the applicant has acquired general liability insurance, naming the department as a certificate holder of the policy, and the name, address, and telephone number of the local insurance agent for the carrier and the applicant's policy number. The insurance must cover any motor vehicle bearing dealer or demonstrator license plates and any motorboat, snowmobile, or off-highway vehicle displaying a dealer's identification card that is offered for demonstration or loan to a customer or otherwise operated by a customer in the regular course of the applicant's business and must be for a minimum of 1 year;

(e) the geographic location of the physical lot or lots upon which vehicles will be displayed for sale, if applicable, and of a permanent nonresidential building, with no more than three other wholesale, broker, auction, or retail vehicle dealers in the same building or at the same location, that will be maintained to store the actual physical or electronic records resulting from the purchase, sale, trade, or consignment of vehicles for which licensure is sought. An applicant may use more than one location to display vehicles for sale if the maximum distance between each display lot does not exceed 200 feet and if the distance between a display lot and the building in which vehicle sales records are stored does not exceed 1,000 feet.

(f) for each geographic location specified in the application, evidence of the applicant's compliance with applicable local land use planning, zoning, and business permitting requirements, if any. Evidence of compliance may be documented by means of a written verification of compliance signed by the

authorized representative of the local land use planning or zoning board or the local business-permitting agency.

(g) a diagram or plat showing the geographic location, lot dimensions, if applicable, and building and sign placement for the applicant's proposed established place of business, along with two or more photographs of the geographic location, building premises, and sign, as prescribed by the department;

(h) if the applicant is seeking a new motor vehicle dealer's license:

(i) the name and address of the manufacturer, importer, or distributor with whom the applicant has a written new motor vehicle, power sports vehicle, or trailer franchise or sales agreement, the term of the agreement, and the name and make of all motor vehicles, power sports vehicles, or trailers to be handled by the applicant;

(ii) the geographic location or locations, specified in writing, upon which the applicant will provide and maintain a permanent building to display and sell new motor vehicles, power sports vehicles, or trailers and offer and maintain a bona fide service department for the repair, service, and maintenance of the motor vehicles, power sports vehicles, or trailers; and

(iii) verification that the applicant otherwise meets the requirements of part 2 of this chapter.

(7) If an applicant wants to maintain more than one established place of business, the applicant shall file a separate license application for each proposed place of business and otherwise qualify for licensure at each place separately.

(8) Each application under this section must be accompanied by the following fees:

(a) for a new or used dealer's license, a broker's license, or a wholesaler's license, \$30; and

(b) for an auto auction license, the fee provided for in 61-4-120.

(9) (a) Except as provided in subsection (9)(b), an applicant for a dealer's license, broker's license, wholesaler's license, or auto auction license shall also file with the application a bond of \$50,000.

(b) An applicant whose business will be restricted to the sale of motorcycles or quadricycles shall file a bond of \$15,000. An applicant whose business will be restricted to the sale of motorboats, personal watercraft, snowmobiles, or off-highway vehicles, other than motorcycles originally equipped for use on the highway, shall file a bond of \$5,000.

(c) All bonds must be conditioned that the applicant shall conduct the business in accordance with the requirements of the law. All bonds must be approved by the department, must be filed in its office, and must be renewed annually."

Section 19. Section 61-4-125, MCA, is amended to read:

"61-4-125. Wholesaler restrictions -- demonstrator plates -- annual report. (1) The retail sale of used vehicles by a wholesaler is prohibited.

(2) Wholesalers may not be issued or use dealer plates, as provided in 61-4-102. However, a wholesaler may be issued demonstrator plates, as provided in 61-4-129, for use on any type of motor vehicle or trailer that a wholesaler is authorized to sell. To the extent not inconsistent with this section, use of wholesaler demonstrator plates is otherwise governed by 61-4-129.

(3) (a) On or before the 15th day of the month prior to the dealer license expiration month, a wholesaler shall submit an annual report, in a form or manner prescribed by the department, to the department to advise the department of any changes that may have occurred in that calendar year affecting the information originally filed under 61-4-101. The report must

contain information concerning owner identity, other ownership interests, felony conduct, general liability insurance status, surety bond filings, and any other relevant information requested by the department. A \$30 filing fee must be submitted with the report.

(b) If a wholesaler seeks to change the applicant's name, ownership interest in the business, corporate officer or managing member of the business entity, or a person designated by the applicant to manage or oversee the applicant's business, the wholesaler shall also provide a new license application as originally required under 61-4-101 and the department shall examine the license application as required under 61-4-101.

(c) Additionally, the wholesaler shall certify *in an annual report*, under penalty of law, that the wholesaler sold 12 or more motor vehicles, power sports vehicles, or trailers to a dealer, an auto auction, or another wholesaler during the calendar year for which the annual report is filed. A wholesaler who was licensed for less than a full calendar year shall certify, under penalty of law, to the sale of an average of at least one motor vehicle, power sports vehicle, or trailer a calendar month or portion of a calendar month during which the license was in effect.

(d) A wholesaler who cannot, under penalty of law, certify the number of motor vehicle sales required under subsection (3)(c) ~~shall pay a fee of \$25 in addition to the filing fee required in subsection (3)(a) must be subject to revocation.~~

Section 20. Section 61-4-128, MCA, is amended to read:

"61-4-128. Common standards – dealer plates – demonstrator plates – loaner plates – identification cards – fees. (1) (a) Dealer, demonstrator, loaner, and courtesy license plates authorized under this part must be designed by the department in a manner that is similar to standard license plates furnished under 61-3-332, but the word "dealer", "demonstrator", "loaner", or "courtesy" must be included in the plate design.

(b) Dealer, demonstrator, loaner, and courtesy license plates must be numbered in a manner that is readily distinguishable from other plate styles issued by the department. The numbering system for dealer plates must contain the distinctive license number, *up to 25 characters long*, assigned by the department to a dealer and a number or alphanumeric identification mark *assigned by the department* that relates to the assignment of sets of dealer plates to a dealer. The numbering system for demonstrator and loaner plates may be sequential and unrelated to the number of demonstrator plates or the distinctive license number assigned to a dealer, wholesaler, or auto auction.

(c) Dealer, demonstrator, loaner, and courtesy plates issued under this part must be replaced on the same cycle that is required for standard license plates under 61-3-332.

(d) Except as provided in 61-4-124, dealer, demonstrator, loaner, and courtesy plates must display a registration decal, affixed as prescribed by the department, for the calendar year for which use of the plate or plates is authorized under this part.

(2) (a) Identification cards must be designed by the department and furnished to dealers to authorize the demonstration of a motorboat or personal watercraft, a snowmobile, or an off-highway vehicle by a dealer licensed under this part or a customer of a dealer licensed under this part. Each identification card must include the dealer's name and address and the license number assigned by the department to the dealer and must designate the type of power sports vehicle for which its use is authorized, such as a motorboat or personal watercraft, snowmobile, or off-highway vehicle.

(b) The department may use the same numbering system for identification cards as it uses for demonstrator and loaner plates.

(3) (a) Upon issuance of a license to a dealer whose business includes the sale of motorboats or personal watercraft, snowmobiles, or off-highway vehicles, the department shall furnish identification cards to a dealer as follows:

(i) for a dealer who sells motorboats or personal watercraft, one identification card;

(ii) for a dealer who sells snowmobiles, two identification cards; and

(iii) for a dealer who sells off-highway vehicles, two identification cards.

(b) The dealer may obtain additional identification cards for \$2, as needed, and upon submitting justification for the need to the department.

(4) (a) An identification card issued to a dealer who sells motorboats or personal watercraft may be displayed on a dealer's motorboat or personal watercraft while the motorboat or personal watercraft is operating for a purpose related to the buying, selling, exchanging, or performance testing of the motorboat or personal watercraft by the dealer, manufacturer, or potential buyer.

(b) An identification card issued to a dealer who sells snowmobiles must be carried by the dealer when demonstrating the dealer's snowmobiles or by the dealer's customer.

(c) An identification card issued to a dealer who sells off-highway vehicles must be carried by the dealer when the dealer's off-highway vehicles are being demonstrated for sale purposes or by the dealer's customer.

(5) (a) All dealer, demonstrator, loaner, and courtesy plates and identification cards issued under this part are expired on the first day following the dealer license expiration date of the year of issue and must be renewed annually.

(b) A dealer, wholesaler, or auto auction that files the annual report as required under 61-4-120, 61-4-124, or 61-4-125 may display or use dealer or demonstrator plates and identification cards assigned for the prior calendar year until the dealer license expiration date."

Section 21. Section 61-4-129, MCA, is amended to read:

"61-4-129. Assignment of demonstrator plates. (1) (a) A dealer or wholesaler may purchase demonstrator plates at a fee of \$5 a plate.

(b) Demonstrator plates may not be issued to a new or used dealer whose business is restricted to the sale of power sports vehicles.

(2) (a) Except as provided in subsection (2)(c), demonstrator plates may be used on a motor vehicle displaying a Monroney label or a buyer's guide label, as required by 61-4-123(2), or on a truck, truck tractor, truck tractor pulling a laden or unladen semitrailer, or travel trailer that is:

(i) being demonstrated and offered for sale to a dealership customer for not more than 72 hours when operated by an individual holding a valid operator's license;

(ii) owned by the dealership when operated by an officer or bona fide full-time employee of the dealer or wholesaler and used to transport the dealer's or wholesaler's own tools, parts, and equipment;

(iii) being tested for repair;

(iv) being moved to or from a dealer's place of business for sale;

(v) being moved to or from service and repair facilities before sale; and

(vi) being moved to or from exhibitions within the state, provided the exhibition does not exceed a period of 20 days.

(b) Demonstrator plates may be used:

(i) on trailers being hauled to or from the place of business of the manufacturer and the place of business of the dealer or to and from places of business of the dealer;

(ii) on travel trailers held for sale to demonstrate the towing capability of the motor vehicle, for not more than 72 hours;

(iii) on any motor vehicle owned by the dealer that is used only to move a travel trailer that is in the dealer's inventory; and

(iv) on trailers being moved to or from exhibitions within the state if the exhibition does not exceed a period of 20 days.

(c) Extra demonstrator plates may be made available to dealers eligible for demonstrator plates under subsection (2)(a) to provide to one or more service repair facilities to be used when moving a motor vehicle in the dealer's inventory to and from the dealer's place of business and the service and repair facility prior to sale. A motor vehicle displaying demonstrator plates under this subsection is not required to have a Monroney label or a buyer's guide label as required by 61-4-123(2). *The department may require justification for additional demonstrator plates.*

(d) A motor vehicle being operated in accordance with this subsection (2) need only display one demonstrator plate conspicuously on the rear of the motor vehicle."

Section 22. Section 61-4-225, MCA, is amended to read:

"61-4-225. Loaner license plates – issuance – restrictions on use.

(1) On application and payment of an annual fee of \$25 for a set, the department may issue loaner plates to a new motor vehicle dealer as defined in 61-4-201.

(2) Loaner license plates may be displayed only on a new motor vehicle:

(a) that remains on a manufacturer's statement of origin;

(b) that is in the inventory of the dealer and held primarily for resale; and

(c) that the dealer loans to a customer while the dealer is repairing the customer's vehicle.

(3) A dealer shall maintain records detailing to whom a vehicle bearing loaner plates has been loaned, the date of the loan, the date on which the vehicle bearing loaner plates is to be returned, and the actual date of the vehicle's return. These records must include the name, address, and telephone number of the person or entity to whom the vehicle has been loaned and the name of a contact person who will oversee the actual operation and use of the vehicle. The records are subject to audit by the department.

(4) It is the responsibility of the person or entity to whom the vehicle bearing loaner plates was loaned to carry, while operating or in actual physical control of the vehicle, written proof that the person or entity is authorized to operate or be in actual physical control of the vehicle.

(5) If a dealer allows a person or entity to operate or retain actual physical control of a vehicle bearing loaner plates in violation of this section, the department may suspend the dealer's right to use the loaner plates for a period not to exceed 6 months.

(6) *A dealer may apply for additional plates if the dealer can demonstrate, to the satisfaction of the department, that additional sets of plates are needed."*

Section 23. Section 61-4-301, MCA, is amended to read:

"61-4-301. Permit and transit plates for new motor vehicles being transported by driveaway or towaway methods – used mobile homes.

(1) (a) A person, firm, partnership, or corporation, regularly and lawfully engaged in the transportation of new motor vehicles over the highways of this state from manufacturing or assembly points to agents of manufacturers and dealers in this state or in other states, territories, or foreign countries or provinces by the driveaway or towaway methods, when the motor vehicles being driven, towed, or transported by the saddle-mount, towbar, or full-mount methods, or a lawful combination of these methods, will be transported over the highways of the state only once, may annually apply to the department

of justice for a permit to use the highways of this state and shall pay, upon filing the application, a fee of \$100. Upon processing of the application, that department shall issue an annual permit to the applicant.

(b) A person moving used mobile homes from a point outside the state to a point inside the state may apply to the department for the permit authorized pursuant to subsection (1)(a).

(2) (a) The permitholder may also apply to the department of justice for five sets of transit plates showing the permit number for identification of the motor vehicles being transported by the permitholder, and the plates or devices may be used on a motor vehicle being driven, towed, or transported by and under the control of the permitholder. The department shall collect the additional sum of \$10 for each set of transit plates or devices applied for and issued.

(b) A permitholder may apply for and receive more than five sets of transit plates in a calendar year if the permitholder can demonstrate, to the satisfaction of the department, that additional sets of plates are needed based on the number of trip fees reported in Montana in the previous calendar year. The department shall collect \$10 for each additional set of transit plates issued.

(3) The department of justice shall retain the permit and plate fees to defray costs of administering 61-4-301 through 61-4-308.

(4) The permit and transit plates or devices expire ~~on December 31 of each year when the dealer plate expires.~~

Section 24. Section 61-5-105, MCA, is amended to read:

“61-5-105. Who may not be licensed. The department may not issue a license under this chapter to a person:

(1) who is under ~~16~~ 15 years of age unless:

~~(a) the person is at least 15 years of age and has passed a driver's education course approved by the department and the superintendent of public instruction; or~~

~~(b) the person is at least 13 years of age and, because of individual hardship, to be determined by the department, needs a restricted license;~~

(2) whose license or driving privilege is currently suspended, revoked, or canceled, except as provided in 61-5-232, or who is disqualified from operating a commercial motor vehicle in this or any state, as evidenced by an ineligible status report from the national driver register, established under 49 U.S.C. 30302, or from the commercial driver's license information system, established under 49 U.S.C. 31309;

(3) who is addicted to the use of alcohol or narcotic drugs;

(4) who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who, at the time of application, has not been restored to competency by the methods provided by law;

(5) who is required by this chapter to take an examination;

(6) who has not deposited proof of financial responsibility when required under the provisions of chapter 6 of this title;

(7) who has any condition characterized by lapse of consciousness or control, either temporary or prolonged, that is or may become chronic. However, the department may, in its discretion, issue a license to an otherwise qualified person suffering from a condition if the afflicted person's attending physician, licensed physician assistant, or advanced practice registered nurse, as defined in 37-8-102, attests in writing that the person's condition has stabilized and would not be likely to interfere with that person's ability to operate a motor vehicle safely and, if a commercial driver's license is involved, the person is physically qualified to operate a commercial motor vehicle under applicable state or federal regulations.

(8) who lacks the functional ability, due to a physical or mental disability or limitation, to safely operate a motor vehicle on the highway;

(9) who is not a resident of or domiciled in Montana except as provided in 61-5-103(3); or

(10) whose presence in the United States is not authorized under federal law. When an applicant who is not a citizen of the United States applies for a driver's license, the department shall verify that the applicant is lawfully present in the United States by using the federal systematic alien verification for entitlements program. The department may not accept a driver's license issued by another state as proof that an applicant is lawfully present in the United States under federal law."

Section 25. Section 61-5-111, MCA, is amended to read:

"61-5-111. Contents of driver's license, renewal, license expirations, license replacements, grace period, and fees for licenses, permits, and endorsements – notice of expiration. (1) (a) The department may appoint county treasurers and other qualified officers to act as its agents for the sale of driver's license receipts. In areas in which the department provides driver licensing services 3 days or more a week, the department is responsible for sale of receipts and may appoint an agent to sell receipts.

(b) The department may enter into an authorized agent agreement with ~~the county treasurer of any county in which the department no longer maintains a driver examination station~~ *county treasurers* for the purpose of providing driver's license ~~renewal~~ *limited* services.

(2) (a) The department, upon receipt of payment of the fees specified in this section, shall issue a driver's license to each qualifying applicant. The license must contain:

(i) a full-face photograph of the licensee in the size and form prescribed by the department;

(ii) a distinguishing number issued to the licensee;

(iii) the full legal name, date of birth, and Montana residence address unless the licensee requests use of the mailing address, except that the Montana residence address must be used for a REAL ID-compliant driver's license unless authorized by department rule;

(iv) a brief description of the licensee;

(v) either the licensee's customary manual signature or a reproduction of the licensee's customary manual signature; and

(vi) if the applicant qualifies under subsection (7), indication of the applicant's status as a veteran.

(b) The department may not use the licensee's social security number as the distinguishing number. A license is not valid until it is signed by the licensee.

(3) (a) When a person applies for renewal of a driver's license, the department shall conduct a records check in accordance with 61-5-110(1) to determine the applicant's eligibility status and shall test the applicant's eyesight. The department may also require the applicant to submit to a knowledge and road or skills test if:

(i) the renewal applicant has a physical or mental disability, limitation, or condition that impairs, or may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; and

(ii) the expired or expiring license does not include adaptive equipment or operational restrictions appropriate to the applicant's functional abilities; or

(iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring license.

(b) In the case of a commercial driver's license, the department shall, if the information was not provided in a prior licensing cycle, require the renewal applicant to provide the name of each jurisdiction in which the applicant was previously licensed to drive any type of motor vehicle during the 10-year period immediately preceding the date of the renewal application and may also require that the applicant successfully complete a written examination as required by federal regulations.

(c) A person is considered to have applied for renewal of a Montana driver's license if the application is made within 6 months before or 1 year after the expiration of the person's license or if the person has applied for a REAL ID-compliant driver's license pursuant to 61-5-129. Except as provided in subsection (3)(d), a person seeking to renew a driver's license shall appear in person at a Montana driver's examination station.

(d) (i) Except as provided in subsections (3)(d)(iii) through (3)(d)(v), a person may renew a driver's license by mail or online.

(ii) An applicant who renews a driver's license by mail or online shall submit a completed application and the fees required for renewal.

(iii) If the department does not have a digitized photograph and signature record of the renewal applicant from the expiring license, then the renewal applicant shall apply in person.

(iv) Except as provided in subsections (4)(b) and (4)(c), the term of a license renewed by mail or online is 12 years for a driver's license or 8 years for a REAL ID-compliant driver's license.

(v) The department may not renew a license by mail or online if:

(A) the records check conducted in accordance with 61-5-110(1) shows an ineligible license status for the applicant;

(B) the applicant holds a commercial driver's license with a hazardous materials endorsement, the retention of which requires additional testing and a security threat assessment under 49 CFR, part 1572;

(C) the applicant seeks a change of address, a change of date of birth, or a name change; or

(D) the applicant's license:

(I) has been expired for more than 1 year; or

(II) except as provided in subsection (3)(f), was renewed by mail or online at the time of the applicant's previous renewal.

(e) A renewal applicant who is stationed outside Montana on active military duty may renew the license by mail or online as long as the applicant is on active military duty.

(f) The spouse or a dependent of a renewal applicant who is stationed outside Montana on active military duty may renew the applicant's license by mail or online for one additional consecutive term following a renewal by mail or online.

(g) The department shall send electronically or mail a driver's license renewal notice no earlier than 120 days and no later than 30 days prior to the expiration date of a driver's license. The department shall send the notice to the licensee's Montana mailing address shown on the driver's license or, if requested by the licensee, provide the notice using an authorized method of electronic delivery, or both.

(4) (a) Except as provided in subsections (4)(b) through (4)(e), a license expires on the anniversary of the licensee's birthday 12 years or less after the date of issue or on the licensee's 75th birthday, whichever occurs first.

(b) A license issued to a person who is 75 years of age or older expires on the anniversary of the licensee's birthday 4 years or less after the date of issue.

(c) A license issued to a person who is under 21 years of age expires on the licensee's 21st birthday.

(d) (i) Except as provided in subsection (4)(d)(ii), a commercial driver's license expires on the anniversary of the licensee's birthday $\pm$ 8 years or less after the date of issue.

(ii) When a person obtains a Montana commercial driver's license with a hazardous materials endorsement after surrendering a comparable commercial driver's license with a hazardous materials endorsement from another licensing jurisdiction, the license expires on the anniversary of the licensee's birthday 4 years or less after the date of the issue of the surrendered license if, as reported in the commercial driver's license information system, a security threat assessment was performed on the person as a condition of issuance of the surrendered license.

(e) A license issued to a person who is a foreign national whose presence in the United States is temporarily authorized under federal law expires, as determined by the department, no later than the expiration date of the official document issued to the person by the bureau of citizenship and immigration services of the department of homeland security authorizing the person's presence in the United States.

(5) When the department issues a driver's license to a person under 18 years of age, the license must be clearly marked with a notation that conveys the restrictions imposed under 61-5-133.

(6) (a) Upon application for a driver's license or commercial driver's license and any combination of the specified endorsements, the following fees must be paid:

(i) driver's license, except a commercial driver's license -- \$5 a year or fraction of a year;

(ii) motorcycle endorsement -- 50 cents a year or fraction of a year;

(iii) commercial driver's license:

(A) interstate -- \$10 a year or fraction of a year; or

(B) intrastate -- \$8.50 a year or fraction of a year.

(b) A renewal notice for either a driver's license or a commercial driver's license is 50 cents.

(7) (a) Upon receiving a request from a person whose status as a veteran has been verified by the department of military affairs pursuant to 10-2-1301 and upon receiving the information and fees required in this part, the department shall include the word "veteran" on the face of the license.

(b) After a person's status as a veteran is denoted on a driver's license, the department may not require further documentation of that status from the holder of the license upon subsequent renewal or replacement.

(8) (a) Except as provided in subsection (8)(b), an applicant may request a replacement driver's license online or by mail.

(b) If the department does not have a digitized photograph and signature record of the applicant, the applicant shall apply in person.

(c) The term of the replacement license must be the term of the applicant's current driver's license.

(9) (a) An applicant may request an expedited delivery service for a driver's license or identification card. The department shall set a fee for expedited delivery based on the cost of providing this service.

(b) The fees for expedited delivery must be deposited in the motor vehicle division administration account established in 61-3-112 and used for the purposes of expediting delivery, including actual costs for delivery, personnel, and related technology."

Section 26. Section 61-5-119, MCA, is amended to read:

“61-5-119. Definitions. (1) For the purposes of 61-5-120, “driver rehabilitation specialist” means a person who:

(a) possesses current certification from the association of driver educators for the disabled as a driver rehabilitation specialist; or

(b) (i) provides comprehensive services in the clinical evaluation of the abilities of a person with a disability to safely operate a motor vehicle, utilizing, among other things, wheelchair and seating assessment, motor vehicle modification prescription, and driver education;

(ii) (A) possesses a bachelor’s degree in rehabilitation, education, or health and safety, in physical, occupational, or recreational therapy, or in a related profession; or

(B) has an equivalent of 8 years of experience in driver rehabilitation and education; and

(iii) has at least 1 year of experience in the area of driver evaluation and training for individuals with disabilities.

(2) For the purposes of this chapter, unless the context requires otherwise, “cancellation” means that a driver’s license is annulled and terminated because of some error or defect or because the licensee is no longer entitled to the license. Except as provided in ~~61-5-201(3)~~ 61-5-201, the cancellation of a license is without prejudice and application for a new license may be made at any time after cancellation.”

Section 27. Section 61-5-201, MCA, is amended to read:

“61-5-201. Authority of department to cancel license. (1) The department may cancel a driver’s license if it has reasonable grounds to believe that:

(a) the licensee was not entitled to the issuance;

(b) since the issuance, the licensee has become ineligible as determined pursuant to the provisions of 61-5-105;

(c) the licensee failed to give the required or correct information in the licensee’s application or committed any fraud in making the application; or

(d) the licensee has applied for another driver’s license or an identification card issued by the department.

~~(2) Upon cancellation, the licensee shall surrender the canceled license to the department.~~

~~(3)~~(2) A person whose driver’s license is canceled because the person failed to give the required or correct information on the application or committed any fraud in making the application is disqualified from operating a commercial motor vehicle for a period of 60 days from the date of the cancellation.”

Section 28. Section 61-8-1016, MCA, is amended to read:

“61-8-1016. Implied consent – blood or breath tests for alcohol, blood or oral fluid for drugs, or testing for both – alcohol and drugs using recognized methods for each – refusal to submit to test – administrative license suspension. (1) (a) A person who operates or is in actual physical control of a vehicle or commercial motor vehicle upon the ways of this state open to the public is considered to have given consent to a test or tests of the person’s blood or breath for the purpose of determining any measured amount or detected presence of alcohol or blood or oral fluid for the purpose of determining any measured amount or detected presence of drugs in the person’s body.

(b) The tests in subsection (1)(a) include but are not limited to a preliminary alcohol screening test of the person’s breath for the purpose of estimating the person’s alcohol concentration.

(c) A preliminary alcohol screening test may not be conducted or requested under this section unless both the peace officer and the instrument used to

conduct the test have been certified by the department pursuant to rules adopted under the authority of 61-8-1019(5).

(d) The person's obligation to submit to a test in subsection (1)(a) is not satisfied by the person submitting to a preliminary alcohol screening test pursuant to this section.

(2) (a) The test or tests must be administered at the direction of a peace officer when:

(i) the peace officer has particularized suspicion to believe that the person has been driving or has been in actual physical control of a vehicle upon ways of this state open to the public while under the influence of alcohol, drugs, or a combination of the two and the person has been detained for a violation of driving under the influence as provided in 61-8-1002 or an offense that meets the definition of aggravated driving under the influence in 61-8-1001;

(ii) the person is under the age of 21 and the peace officer has particularized suspicion to believe that the person has been driving or in actual physical control of a vehicle in violation of 61-8-1002(1)(e); or

(iii) the peace officer has probable cause to believe that the person was driving or in actual physical control of a vehicle or commercial motor vehicle:

(A) in violation of driving under the influence, as provided in 61-8-1002, and the person has been placed under arrest;

(B) in violation of driving under the influence as provided in 61-8-1002, and the person has been involved in a motor vehicle crash or collision resulting in property damage;

(C) and the person has been involved in a motor vehicle accident or collision resulting in serious bodily injury, as defined in 45-2-101, or death; or

(D) in violation of driving under the influence as provided in 61-8-1002 and meets the definition of aggravated driving under the influence in 61-8-1001.

(b) A peace officer may designate which test or tests are administered.

(c) The peace officer shall inform the person of the right to refuse the test and that the refusal to submit to the test will result in the suspension for up to 1 year of that person's driver's license.

(d) A hearing as provided for in 61-8-1017 must be available. The issues in the hearing must be limited to determining whether a peace officer had a particularized suspicion that the person was in violation of 61-8-1002 or an offense meeting the definition of aggravated driving under the influence in 61-8-1001, and whether the person refused to submit to the test.

(e) If a person refuses a preliminary alcohol screening test and another test during the same incident, the department may not consider each a separate refusal for purposes of suspension of the person's driver's license.

(3) A person who is unconscious or who is otherwise in a condition rendering the person incapable of refusal is considered not to have withdrawn the consent requested in subsection (1).

(4) (a) If an arrested person refuses to submit to one or more tests requested and designated by the peace officer, the refused test or tests may not be given unless the person has refused to provide a breath, blood, urine, or other bodily substance in a prior investigation in this state or under a substantially similar statute in another jurisdiction or the arrested person has a prior conviction or pending offense for a violation of 45-5-104, 45-5-106, 45-5-205, or driving under the influence, including 61-8-1002, an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under previous laws of this state or a similar statute in another jurisdiction.

(b) On the person's refusal to provide the breath, blood, urine, oral fluid, or other bodily substance requested by the peace officer pursuant to subsection (1)

and this subsection (4) may apply for a search warrant to be issued pursuant to 46-5-224 to collect a sample of the person's blood or oral fluid for testing.

(c) (i) On the person's refusal to provide a breath, blood, urine, oral fluid, or other bodily substance, the peace officer shall, ~~on behalf of the department, immediately seize the person's driver's license. The peace officer shall~~ immediately forward the license to the department; along with a report certified under penalty of law stating which of the conditions set forth in subsection (2)(a) provides the basis for the testing request and confirming that the person refused to submit to one or more tests requested and designated by the peace officer. Upon receipt of the report, the department shall suspend the license for the period provided in 61-8-1032.

(ii) ~~Upon seizure of a driver's license, the~~ The peace officer shall issue, on behalf of the department, a temporary driving permit, which is effective 12 hours after issuance and is valid for 5 days following the date of issuance, and shall provide the driver with written notice of the license suspension and the right to a hearing as provided in 61-8-1017.

(iii) ~~A nonresident driver's license seized under this section must be sent by the department to the licensing authority of the nonresident's home state with a report of the nonresident's refusal to submit to one or more tests.~~

(5) This section does not apply to tests, samples, and analyses of blood, breath, or urine used for purposes of medical treatment or care of an injured motorist, related to a lawful seizure for a suspected violation of an offense not in this part, or performed pursuant to a search warrant.

(6) This section does not prohibit the release of information obtained from tests, samples, and analyses of blood, breath, or urine for law enforcement purposes as provided in 46-4-301 and 61-8-1019(6)."

Section 29. Section 61-8-1017, MCA, is amended to read:

"61-8-1017. Right of appeal to court. (1) Within 30 days after notice of the right to a hearing has been given by a peace officer, a person may file a petition to challenge the license suspension or revocation in the district court in the county where the arrest was made.

(2) The court has jurisdiction and shall set the matter for hearing. The court shall give at least 10 days' written notice of the hearing to the county attorney of the county where the arrest was made and to the city attorney if the incident leading to the suspension or revocation resulted in a charge filed in a city or municipal court. The county attorney or city attorney may represent the state. If the county attorney and the city attorney cannot agree on who will represent the state, the county attorney shall represent the state.

(3) Upon request of the petitioner, the court may ~~order the department to return the seized license or~~ issue a stay of the suspension or revocation action pending the hearing.

(4) The court shall take testimony, examine the facts of the case, and determine whether the petitioner is entitled to a license or whether the petitioner's license is subject to suspension or revocation based on no other issues than:

(a) whether a peace officer had a basis for requesting a test or tests as set forth in 61-8-1016, and

(b) whether the person refused to submit to one or more tests designated by the peace officer.

(5) This section does not grant a right of appeal to a state court if a driver's license is ~~initially seized, suspended, or revoked pursuant to a tribal law or regulation that requires alcohol or drug testing of motor vehicle operators.~~"

Section 30. Section 61-8-1032, MCA, is amended to read:

“61-8-1032. Mandatory suspension of license following certain implied consent action. (1) The department shall suspend an individual's driver license if the department receives a report for an implied consent violation from law enforcement or another reporting jurisdiction that, pursuant to 61-8-1016, an individual has refused a test or tests of the person's blood, breath, oral fluid, urine, or other bodily substance for determining any measured amount or detected presence of alcohol or drugs in the person's body.

(2) (a) Except as permitted by law, a person whose license or privilege to drive a motor vehicle on the public highways has been suspended may not have the license or privilege renewed or restored until the revocation or suspension duration has been completed.

(b) The department shall apply the appropriate sanction to the driver based on the reported conviction and prior offenses.

(c) The driver shall pay all reinstatement and administrative fees owed to the department before a driver's license or privilege to drive is restored.

(d) The duration of the suspension commences from the date of violation.

(e) If a person refuses tests for the same incident, the department may not consider each a separate refusal for purposes of suspension.

(f) The department may not issue a probationary license during the suspension issued under this part.

(3) (a) A person who has an implied consent violation shall pay the department an administrative fee of \$300, which must be deposited in the state special revenue account established pursuant to subsection (3)(b).

(b) There is a blood-draw search warrant processing account in the state special revenue fund established pursuant to 17-2-102(1)(b). Money provided to the department of justice pursuant to this subsection (3) must be deposited in the account and may be used only for providing forensic analysis of a driver's blood or breath to determine the presence of alcohol or drugs.

(4) (a) Upon receiving a report of an implied consent violation, the department shall:

(i) for a first violation, suspend the driver's license or driving privilege for 6 months with no provision for a restricted probationary license; or

(ii) for a second or subsequent violation within 5 years of a previous refusal, as determined from the records of the department, suspend the driver's license or driving privilege for 1 year with no provision for a restricted probationary license.

(b) If a person who refuses to submit to one or more tests under this section is the holder of a commercial driver's license, in addition to any action taken against the driver's noncommercial driving privileges, the department shall:

(i) upon a first refusal, suspend the person's commercial driver's license for 1 year; and

(ii) upon a second or subsequent refusal, suspend the person's commercial driver's license for life, subject to department rules adopted to implement federal rules allowing for license reinstatement, if the person is otherwise eligible, upon completion of a minimum suspension period of 10 years. If the person has a prior conviction of a major offense listed in 61-8-802(2) arising from a separate incident, the conviction has the same effect as a previous testing refusal.

(5) A nonresident driver's license seized under this section must be sent by the department to the licensing authority of the nonresident's home state with a report of the nonresident's refusal to submit to one or more tests.

(6) The department may recognize the seizure of a license of a tribal member by a peace officer acting under the authority of a tribal government

~~or an order issued by a tribal court suspending, revoking, or reinstating a license or adjudicating a license seizure if the actions are conducted pursuant to tribal law or regulation requiring alcohol or drug testing of motor vehicle operators and the conduct giving rise to the actions occurred within the exterior boundaries of a federally recognized Indian reservation in this state. Action by the department under this subsection is not reviewable under 61-8-1017."~~

Section 31. Section 61-12-501, MCA, is amended to read:

"61-12-501. Authority of department to issue identification cards – lawful presence verification. (1) The department may issue an identification card to any person who ~~maintains a residence in this state~~ *provides acceptable documentation of Montana residency* and whose presence in the United States is authorized under federal law.

(2) When an applicant who is not a citizen of the United States applies for an identification card, the department shall verify that the applicant is lawfully present in the United States by using the federal systematic alien verification for entitlements program.

(3) A person may only have one nonvoided driver's license or identification card issued by the department at any time.

(4) *As used in this section, "identification card" and "driver's license" include a digital credential."*

Section 32. Repealer. The following sections of the Montana Code Annotated are repealed:

61-3-413. Registration of motor vehicle as general transportation collector's item -- definition -- permanent registration required.

61-3-426. Combined license plates.

61-3-473. Definitions.

61-5-209. Surrender and return of license upon suspension or revocation.

Approved May 5, 2025

CHAPTER NO. 396

[SB 392]

AN ACT ESTABLISHING THE LAVERNE PARRISH MEMORIAL HIGHWAY; DIRECTING THE DEPARTMENT OF TRANSPORTATION TO INSTALL SIGNS AND TO INCLUDE THE MEMORIAL HIGHWAY ON THE NEXT PUBLICATION OF THE STATE MAP; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Laverne Parrish was born on July 16, 1918, to Clatious and Weltha Parrish; and

WHEREAS, Laverne Parrish graduated from Ronan High School in 1937; and

WHEREAS, Laverne Parrish enlisted in the Army National Guard in 1941, where he became a medical aidman; and

WHEREAS, Laverne Parrish was assigned to the 161st Infantry, 25th Infantry Division and participated in several major campaigns, including Guadalcanal, the Solomon Islands, and the Philippines; and

WHEREAS, on January 18, 1945, Laverne Parrish risked his life to save two wounded soldiers who were under enemy fire, moving one man to cover and exposing himself to enemy fire across open ground to provide aid to the second man; and

WHEREAS, on January 24, 1945, Laverne Parrish again risked his life to aid 12 wounded soldiers in an open field, crossing and recrossing areas under enemy fire and making five successive trips to bring wounded soldiers to safety; and

WHEREAS, on January 24, 1945, having treated nearly all 37 wounded soldiers in his company, Laverne Parrish was killed by enemy mortar fire; and

WHEREAS, Laverne Parrish was posthumously awarded the Medal of Honor for extraordinary heroism in Luzon, Philippine Islands, in 1945.

Be it enacted by the Legislature of the State of Montana:

Section 1. Laverne Parrish memorial highway. There is established the Laverne Parrish memorial highway on the existing state highway 93 from mile marker 48 to mile marker 51.

(2) The department shall design and install appropriate signs marking the location of the Laverne Parrish memorial highway.

(3) Maps that identify roadways in the state must be updated to include the location of the Laverne Parrish memorial highway when the department updates and publishes the state maps.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 60, chapter 1, part 2, and the provisions of Title 60, chapter 1, part 2, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 397

[SB 398]

AN ACT INCREASING THE CAP FOR COLLECTIONS RELATED TO ACTIONS BROUGHT BEFORE A MUNICIPAL COURT; AND AMENDING SECTION 3-6-103, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-6-103, MCA, is amended to read:

“3-6-103. Jurisdiction. (1) Except as provided in subsection (2), the municipal court has jurisdiction coordinate and coextensive with the justices’ courts of the county where the city is located and has exclusive original jurisdiction of all civil and criminal actions and proceedings provided for in 3-11-103.

(2) The municipal court has original jurisdiction of the following proceedings:

(a) actions for the collection of money due to the city or from the city to any person when the amount sought, exclusive of interest and costs, does not exceed ~~\$25,000~~ *\$50,000*;

(b) when the amount claimed, exclusive of costs, does not exceed ~~\$25,000~~ *\$50,000*, actions for:

(i) the breach of an official bond given by a city officer;

(ii) the breach of any contract when the city is a party or is in any way interested;

(iii) damages when the city is a party or is in any way interested;

(iv) the enforcement of forfeited recognizances given to, for the benefit of, or on behalf of the city; and

(v) collections on bonds given upon an appeal taken from the judgment of the court in any action mentioned in subsections (2)(b)(i) through (2)(b)(iv); and

(c) actions for the recovery of personal property belonging to the city when the value of the property, exclusive of the damages for taking or detention, does not exceed ~~\$25,000~~ *\$50,000*.

(3) Municipal courts have concurrent jurisdiction with the district court in actions arising under Title 70, chapters 24 through 27.

(4) Applications for search warrants and complaints charging the commission of a felony may be filed in municipal court. The municipal court judge has the same jurisdiction and responsibility as a justice of the peace, including holding preliminary hearings. The city attorney may initiate proceedings charging a felony if the offense was committed within the city limits, but the county attorney shall take charge of the action if an information is filed in district court.”

Approved May 5, 2025

CHAPTER NO. 398

[SB 404]

AN ACT REQUIRING THAT CERTAIN BUILDING PERMITS BE SENT TO THE DEPARTMENT OF REVENUE; REQUIRING LOCAL GOVERNMENTS AND THE DEPARTMENT OF LABOR AND INDUSTRY TO SEND THE DEPARTMENT OF REVENUE COPIES OF BUILDING PERMITS IN ORDER TO IDENTIFY NEW CONSTRUCTION; AND PROVIDING A DEFINITION.

Be it enacted by the Legislature of the State of Montana:

Section 1. Department of revenue notification of new construction by local governments and department of labor and industry. (1) When a local government or the department of labor and industry issues a building permit or an electrical permit for new construction, the local government or the department of labor and industry shall send a copy of the building permit or electrical permit through electronic or other means to the department of revenue within 90 days of the issuance of the permit. The notification must include clear and consistent location information for the parcel in a format agreed to by the department, which may include an address, geocode, or legal description.

(2) For the purposes of this section, “local government” means any city, town, county, or consolidated city-county.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 7, part 1, and the provisions of Title 15, chapter 7, part 1, apply to [section 1].

Approved May 5, 2025

CHAPTER NO. 399

[SB 412]

AN ACT PROVIDING FOR FEE WAIVERS OF CERTAIN GOVERNMENT DOCUMENTS TO FORMER FOSTER CHILDREN UNDER 21 YEARS OF AGE; SUPERSEDING THE UNFUNDED MANDATE LAWS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 7-4-2631, 20-25-515, 50-15-111, 61-5-111, 61-5-114, AND 61-12-504, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Fee waivers for government documents provided to former foster children – exception for academic records – rulemaking authority. (1) Except as provided in subsection (3), a person who meets the following criteria may not be assessed the fees identified in subsection (2):

(a) the person was previously a foster child as defined in 52-2-602 but is no longer in the custody of the department of public health and human services due to the person turning 18 years of age; and

(b) the person is under 21 years of age.

(2) The following fees may not be assessed to the individuals identified in subsection (1):

(a) the fee to county clerks for each certified copy of a birth certificate under 7-4-2631;

(b) the fee to the department of public health and human services for the replacement of a birth certificate under 50-15-111;

(c) the fee to the department of justice for the application or renewal of a driver's license or motorcycle endorsement under 61-5-111;

(d) the fee to the department of justice for a replacement license under 61-5-114;

(e) the fee to the department of justice for an identification card under 61-12-504; and

(f) a fee charged by a unit of the Montana university system for the release of a student's transcript or academic record under 20-25-515.

(3) Notwithstanding the requirement in subsection (2)(f), a fee charged by a unit of the Montana university system for the release of a student's transcript or academic record under 20-25-515 may be assessed to a person who meets the criteria in subsection (1) if the unit of the Montana university system first assesses the fee to the department of public health and human services for reimbursement under [section 2] and:

(a) the department certifies that it is unable to reimburse the fee under the requirements of [section 2]; or

(b) the fee is not paid within 30 days after it is assessed to the department.

(4) A person eligible for a fee waiver under this section may be required to provide an oral attestation that the person meets the criteria under subsection (1)(a). The office or department responsible for furnishing a document listed under subsection (2) may not require the person to provide additional evidence of eligibility beyond the oral attestation.

(5) The department of public health and human services may adopt rules to implement [sections 1 and 2].

Section 2. Reimbursement of waived fees – authorization to utilize federal funds – directions to department. The department of public health and human services is authorized to apply for and receive from the federal government funds that may be appropriated by the United States congress for aiding in the successful transition of foster care children to adulthood. The department may use the funds to reimburse the entity responsible for collecting the fees identified in [section 1(2)] for the value of fees waived under [section 1]. The department is not required to reimburse the value of fees waived under [section 1] if no funds are received from the congress for aiding in the successful transition of foster care children to adulthood.

Section 3. Section 7-4-2631, MCA, is amended to read:

“7-4-2631. Fees of county clerk. (1) Except as provided in 7-2-2803(4), 7-4-2632, 7-4-2637, and this section, the county clerks shall charge, for the use of their respective counties:

(a) for filing and indexing each writ of attachment, execution, certificate of sale, lien, or other instrument required by law to be filed and indexed, \$5;

(b) for filing of subdivision and townsite plats, \$25 plus:

(i) for each lot up to and including 100, 50 cents;

(ii) for each additional lot in excess of 100, 25 cents;

(c) for filing certificates of surveys and amendments thereto, \$25 plus 50 cents per tract or lot;

(d) for each page of a document required to be filed with a subdivision, townsite plat, or certificate of survey for which a filing fee is not otherwise set by law, \$1;

(e) for a copy of a record or paper:

(i) for the first page of any document, 50 cents, and 25 cents for each subsequent page; and

(ii) for each certification with seal affixed, \$2;

(f) for searching an index record of files of the office for each year when required in abstracting or otherwise, 50 cents;

(g) for administering an oath with certificate and seal, no charge;

(h) for taking and certifying an acknowledgment, with seal affixed, for signature to it, no charge;

(i) for filing, indexing, or other services provided for by Title 30, chapter 9A, part 5, the fees prescribed under those sections;

(j) for recording each stock subscription and contract, stock certificate, and articles of incorporation for water users' associations, \$3;

(k) for filing a copy of notarial commission and issuing a certificate of official character of such notary public, \$2;

(l) for each certified copy of a birth certificate, \$8, and for each certified copy of a death certificate, \$7;

(m) for electronic storage of minutes of an administrative board, district, or commission pursuant to 7-1-204, 7-11-1030, 7-13-2350, 7-22-2113, 7-33-2112, or 76-15-324, no charge; and

(n) for filing, recording, or indexing any other instrument not expressly provided for in this section or 7-4-2632, the same fee provided in this section or 7-4-2632 for a similar service.

(2) The county clerks shall charge, for the use of their respective counties, the fee as provided in 7-4-2632 for recording and indexing the following:

(a) each certificate of location of a quartz or placer mining claim or millsite claim, including a certificate that the instrument has been recorded with the seal affixed; and

(b) each affidavit of annual labor on a mining claim, including a certificate that the instrument has been recorded with the seal affixed.

(3) State agencies submitting documents to be put of record shall pay the fees provided for in this section. If a state agency or political subdivision has requested an account with the county clerk, any applicable fees must be paid on a periodic basis.

(4) (a) A county shall transfer \$2 of each fee collected for a death certificate issued under subsection (1)(l) to the department of revenue for deposit in the account in the state special revenue fund to the credit of the board of funeral service.

(b) The fee must be transferred monthly unless the department and the county have agreed to a different transfer schedule.

(5) *A clerk may not charge a fee for a certified copy of a birth certificate under subsection (1)(l) to a former foster child who is under 21 years of age as provided in [section 1].*"

Section 4. Section 20-25-515, MCA, is amended to read:

"20-25-515. Release of student records. A university or college shall release a student's academic record only when requested by the student or by a subpoena issued by a court or tribunal of competent jurisdiction. A student's written permission must be obtained before the university or college may release any other kind of record unless ~~such the record shall~~ *must* have been

subpoenaed by a court or tribunal of competent jurisdiction. *A fee charged by a university or college for the release of the transcript or academic record of a student who meets the criteria in [section 1(1)] must first be charged to the department of public health and human services under the requirements of [section 1].*"

Section 5. Section 50-15-111, MCA, is amended to read:

"50-15-111. Certified copy fees – transfer. (1) The department shall prescribe, by rule, a fee for:

- (a) a certified copy of certificates or records other than a death certificate;
- (b) a search of files or records when a copy is not made;
- (c) a copy of information provided for statistical or administrative purposes as allowed by law;

- (d) the replacement of a birth certificate subsequent to adoption, legitimation, paternity determination or acknowledgment, or court order;

- (e) filing a delayed registration of a vital event;

- (f) the amendment of a vital record, after 1 year from the date of filing; and
- (g) other services specified by this chapter or by rule.

(2) (a) The minimum fee for a death certificate must be:

- (i) \$16 for each certified copy, including any additional certified copies requested at the same time as the first certified copy; and

- (ii) \$14 for each informational copy of a death certificate.

(b) The department may, by rule, prescribe a fee for a death certificate that is higher than the minimum fee listed in subsection (2)(a).

(3) Fees received under subsection (1) must be deposited in the state special revenue fund to be used by the department for:

- (a) the maintenance of indexes to vital records;

- (b) the preservation of vital records; and

- (c) the administration of the system of vital statistics.

(4) For fees received under subsection (2)(a), the department shall:

- (a) transfer \$1 of each fee to the department of labor and industry for use as provided in 37-19-204; and

- (b) deposit the remainder of the fee in the state special revenue fund to be used by the department for the purposes listed in subsection (3)

(5) *The department may not charge a fee for a replacement of a birth certificate under subsection (1)(d) to a former foster child who is under 21 years of age as provided in [section 1].*"

Section 6. Section 61-5-111, MCA, is amended to read:

"61-5-111. Contents of driver's license, renewal, license expirations, license replacements, grace period, and fees for licenses, permits, and endorsements – notice of expiration. (1) (a) The department may appoint county treasurers and other qualified officers to act as its agents for the sale of driver's license receipts. In areas in which the department provides driver licensing services 3 days or more a week, the department is responsible for sale of receipts and may appoint an agent to sell receipts.

(b) The department may enter into an authorized agent agreement with the county treasurer of any county in which the department no longer maintains a driver examination station for the purpose of providing driver's license renewal services.

(2) (a) The department, upon receipt of payment of the fees specified in this section, shall issue a driver's license to each qualifying applicant. The license must contain:

- (i) a full-face photograph of the licensee in the size and form prescribed by the department;

- (ii) a distinguishing number issued to the licensee;

(iii) the full legal name, date of birth, and Montana residence address unless the licensee requests use of the mailing address, except that the Montana residence address must be used for a REAL ID-compliant driver's license unless authorized by department rule;

(iv) a brief description of the licensee;

(v) either the licensee's customary manual signature or a reproduction of the licensee's customary manual signature; and

(vi) if the applicant qualifies under subsection (7), indication of the applicant's status as a veteran.

(b) The department may not use the licensee's social security number as the distinguishing number. A license is not valid until it is signed by the licensee.

(3) (a) When a person applies for renewal of a driver's license, the department shall conduct a records check in accordance with 61-5-110(1) to determine the applicant's eligibility status and shall test the applicant's eyesight. The department may also require the applicant to submit to a knowledge and road or skills test if:

(i) the renewal applicant has a physical or mental disability, limitation, or condition that impairs, or may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; and

(ii) the expired or expiring license does not include adaptive equipment or operational restrictions appropriate to the applicant's functional abilities; or

(iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring license.

(b) In the case of a commercial driver's license, the department shall, if the information was not provided in a prior licensing cycle, require the renewal applicant to provide the name of each jurisdiction in which the applicant was previously licensed to drive any type of motor vehicle during the 10-year period immediately preceding the date of the renewal application and may also require that the applicant successfully complete a written examination as required by federal regulations.

(c) A person is considered to have applied for renewal of a Montana driver's license if the application is made within 6 months before or 1 year after the expiration of the person's license or if the person has applied for a REAL ID-compliant driver's license pursuant to 61-5-129. Except as provided in subsection (3)(d), a person seeking to renew a driver's license shall appear in person at a Montana driver's examination station.

(d) (i) Except as provided in subsections (3)(d)(iii) through (3)(d)(v), a person may renew a driver's license by mail or online.

(ii) An applicant who renews a driver's license by mail or online shall submit a completed application and the fees required for renewal.

(iii) If the department does not have a digitized photograph and signature record of the renewal applicant from the expiring license, then the renewal applicant shall apply in person.

(iv) Except as provided in subsections (4)(b) and (4)(c), the term of a license renewed by mail or online is 12 years for a driver's license or 8 years for a REAL ID-compliant driver's license.

(v) The department may not renew a license by mail or online if:

(A) the records check conducted in accordance with 61-5-110(1) shows an ineligible license status for the applicant;

(B) the applicant holds a commercial driver's license with a hazardous materials endorsement, the retention of which requires additional testing and a security threat assessment under 49 CFR, part 1572;

(C) the applicant seeks a change of address, a change of date of birth, or a name change; or

(D) the applicant's license:

(I) has been expired for more than 1 year; or

(II) except as provided in subsection (3)(f), was renewed by mail or online at the time of the applicant's previous renewal.

(e) A renewal applicant who is stationed outside Montana on active military duty may renew the license by mail or online as long as the applicant is on active military duty.

(f) The spouse or a dependent of a renewal applicant who is stationed outside Montana on active military duty may renew the applicant's license by mail or online for one additional consecutive term following a renewal by mail or online.

(g) The department shall send electronically or mail a driver's license renewal notice no earlier than 120 days and no later than 30 days prior to the expiration date of a driver's license. The department shall send the notice to the licensee's Montana mailing address shown on the driver's license or, if requested by the licensee, provide the notice using an authorized method of electronic delivery, or both.

(4) (a) Except as provided in subsections (4)(b) through (4)(e), a license expires on the anniversary of the licensee's birthday 12 years or less after the date of issue or on the licensee's 75th birthday, whichever occurs first.

(b) A license issued to a person who is 75 years of age or older expires on the anniversary of the licensee's birthday 4 years or less after the date of issue.

(c) A license issued to a person who is under 21 years of age expires on the licensee's 21st birthday.

(d) (i) Except as provided in subsection (4)(d)(ii), a commercial driver's license expires on the anniversary of the licensee's birthday 4 years or less after the date of issue.

(ii) When a person obtains a Montana commercial driver's license with a hazardous materials endorsement after surrendering a comparable commercial driver's license with a hazardous materials endorsement from another licensing jurisdiction, the license expires on the anniversary of the licensee's birthday 4 years or less after the date of the issue of the surrendered license if, as reported in the commercial driver's license information system, a security threat assessment was performed on the person as a condition of issuance of the surrendered license.

(e) A license issued to a person who is a foreign national whose presence in the United States is temporarily authorized under federal law expires, as determined by the department, no later than the expiration date of the official document issued to the person by the bureau of citizenship and immigration services of the department of homeland security authorizing the person's presence in the United States.

(5) When the department issues a driver's license to a person under 18 years of age, the license must be clearly marked with a notation that conveys the restrictions imposed under 61-5-133.

(6) (a) Upon application for a driver's license or commercial driver's license and any combination of the specified endorsements, the following fees must be paid:

(i) driver's license, except a commercial driver's license -- \$5 a year or fraction of a year;

(ii) motorcycle endorsement -- 50 cents a year or fraction of a year;

(iii) commercial driver's license:

(A) interstate -- \$10 a year or fraction of a year; or

(B) intrastate -- \$8.50 a year or fraction of a year.

(b) A renewal notice for either a driver's license or a commercial driver's license is 50 cents.

(7) (a) Upon receiving a request from a person whose status as a veteran has been verified by the department of military affairs pursuant to 10-2-1301 and upon receiving the information and fees required in this part, the department shall include the word "veteran" on the face of the license.

(b) After a person's status as a veteran is denoted on a driver's license, the department may not require further documentation of that status from the holder of the license upon subsequent renewal or replacement.

(8) (a) Except as provided in subsection (8)(b), an applicant may request a replacement driver's license online or by mail.

(b) If the department does not have a digitized photograph and signature record of the applicant, the applicant shall apply in person.

(c) The term of the replacement license must be the term of the applicant's current driver's license.

(9) (a) An applicant may request an expedited delivery service for a driver's license or identification card. The department shall set a fee for expedited delivery based on the cost of providing this service.

(b) The fees for expedited delivery must be deposited in the motor vehicle division administration account established in 61-3-112 and used for the purposes of expediting delivery, including actual costs for delivery, personnel, and related technology.

(10) The department may not charge a fee for an application for or a renewal of a driver's license or motorcycle endorsement under subsection (6) to a former foster child who is under 21 years of age as provided in [section 1].

Section 7. Section 61-5-114, MCA, is amended to read:

"61-5-114. Replacement license -- veteran designation. (1) If a learner license or a driver's license issued under the provisions of this chapter is lost or destroyed or a person wants to update personal information contained on a learner license or a driver's license issued to the person, the person to whom the license was issued may, ~~upon~~ *on* the payment of a fee of \$10, obtain a replacement license, ~~upon~~ *on* furnishing proof satisfactory to the department that the license has been lost or destroyed or that personal information has changed. *The department may not charge a fee for a replacement license to a former foster child who is under 21 years of age as provided in [section 1].*

(2) If the hazardous materials endorsement on a commercial driver's license issued under the provisions of this chapter is revoked or removed pursuant to the authority provided in 61-5-147, the person to whom the license was issued shall surrender to the department the person's commercial driver's license with the hazardous materials endorsement and may obtain, ~~upon~~ *on* making application and paying a \$10 fee, a replacement license that does not include a hazardous materials endorsement.

(3) The department shall include the word "veteran" on the face of a driver's license if the requirements of 61-5-111(7) are met by the person applying for the driver's license."

Section 8. Section 61-12-504, MCA, is amended to read:

"61-12-504. Fees for identification cards -- expiration of cards. (1) ~~Upon~~ *On* application for an identification card issued pursuant to this part, a fee of \$16 must be collected and deposited in the general fund. *The department may not collect a fee for an identification card from a former foster child who is under 21 years of age as provided in [section 1].*

(2) A person with a disability, as defined in 39-30-103, may obtain a free identification card. An individual discharged from any correctional facility must be furnished a free identification card upon release, discharge, or parole.

(3) (a) An identification card expires on the anniversary of the cardholder's date of birth 8 years after the date of issue.

(b) An identification card issued to a person whose presence in the United States is temporarily authorized under federal laws expires, as determined by the department, no later than the expiration date of the official document issued to the person by the United States citizenship and immigration services of the department of homeland security that authorizes the person's presence in the United States."

Section 9. Unfunded mandate laws superseded. The provisions of [this act] expressly supersede and modify the requirements of 1-2-112 through 1-2-116.

Section 10. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 52, chapter 2, and the provisions of Title 52, chapter 2, apply to [sections 1 and 2].

Approved May 5, 2025

CHAPTER NO. 400

[SB 428]

AN ACT REVISING WHERE A LOCAL AUTHORITY AND A COUNTY COMMISSION MAY SET SPEED LIMITS; AND AMENDING SECTION 61-8-310, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-8-310, MCA, is amended to read:

"61-8-310. When local authorities may and shall alter limits or establish or alter area of school zone. (1) If a local authority in its jurisdiction determines on the basis of an engineering and traffic investigation that the speed permitted under 61-8-303 and 61-8-309 through 61-8-313 is greater or less than is reasonable and safe under the conditions found to exist ~~upon~~ on a highway or part of a highway, the local authority may set a reasonable and safe limit that:

(a) decreases the limit ~~at an intersection in an urban district;~~

(b) increases the limit within an urban district, but not to more than 65 miles an hour during the nighttime;

(c) decreases the limit outside an urban district, but not to less than ~~35 miles an hour on a paved road or less than~~ 25 miles an hour on a paved or an unpaved road; or

(d) decreases the limit in a school zone or in an area near a senior citizen center, as defined in 23-5-112, or a designated crosswalk that is close to a school or a senior citizen center to not less than 15 miles an hour. If warranted by an engineering and traffic investigation, a local authority may adopt variable speed limits to adapt to traffic conditions by time of day, provided that the variable limits comply with the provisions of 61-8-206.

(2) A board of county commissioners may set limits, as provided in subsections (1)(c) and (1)(d), without an engineering and traffic investigation on a county road.

(3) A local authority in its jurisdiction may determine the proper speed for all arterial streets and shall set a reasonable and safe limit on arterial streets

that may be greater or less than the speed permitted under 61-8-303 for an urban district.

(4) (a) An altered limit established as authorized under this section is effective at all times or at other times determined by the authority when appropriate signs giving notice of the altered limit are erected upon the highway.

(b) If a local authority decreases a speed limit in a school zone, the local authority shall erect signs conforming with the manual adopted by the department of transportation under 61-8-202 giving notice that the school zone has been entered, of the altered speed limit and the penalty provided in 61-8-726, and that the school zone has ended.

(5) The commission has exclusive jurisdiction to set special speed limits on all state highways or highways located on the commission-designated highway system as defined in 60-1-103 in all municipalities or urban areas. The commission shall set these limits in accordance with 61-8-309.

(6) A local authority establishing or altering the area of a school zone shall consult with the department of transportation and the commission if the school zone includes a state highway or a highway located on the commission-designated highway system as defined in 60-1-103.

(7) A local authority shall consult with district officials for a school when:

(a) establishing or altering the area of a school zone near the school; or

(b) setting a speed limit pursuant to subsection (1)(d) in a school zone near the school.

(8) A speed limit set on an unpaved road under subsection (1)(c) must be the same for all types of motor vehicles that may be operated on the road.

(9) The violation of a speed limit established under subsections (1)(a) through (1)(c) is a misdemeanor offense and is punishable as provided in 61-8-711. The violation of a speed limit established under subsection (1)(d) is a misdemeanor offense and is punishable as provided in 61-8-726.”

Approved May 5, 2025

CHAPTER NO. 401

[SB 433]

AN ACT REVISING RIGHT-OF-WAY LAWS REGARDING ROUNDABOUTS; PROVIDING DEFINITIONS; AND AMENDING SECTION 61-8-327, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Rotary traffic islands and roundabouts – definitions.

(1) A vehicle passing around a rotary traffic island or a roundabout:

(a) may be driven only to the right of the island or to the right of the center of the roundabout; and

(b) has right-of-way over all vehicles approaching the island or roundabout.

(2) (a) A vehicle approaching a rotary traffic island or a roundabout must yield the right-of-way to all vehicles passing around the island or roundabout.

(b) A vehicle approaching a roundabout may not enter the roundabout in a manner that interferes with the travel of a towing vehicle simultaneously entering the roundabout.

(3) (a) If the approach to a rotary traffic island or roundabout has multiple lanes of traffic for travel in the same direction, a towing vehicle may, with due regard for all other traffic and ~~when employing a turn signal or hazard signal,~~ deviate from its lane in order to safely approach or pass around the island or

roundabout. Vehicles travelling in the same direction as the hauling vehicle must yield the right-of-way and may not attempt to pass.

(b) If a towing vehicle is poised to enter a roundabout simultaneously with a second towing vehicle, the vehicle to the left has the right-of-way and the vehicle to the right shall yield.

(4) As used in this section, the following definitions apply:

(a) "Roundabout" means a circular intersection.

(b) "Towing vehicle" means a vehicle that is towing one or more vehicles.

Section 2. Section 61-8-327, MCA, is amended to read:

~~"61-8-327. One-way roadways, rotary traffic islands, and roundabouts.~~ (1) The department of transportation or a local authority may designate a highway, roadway, part of a roadway, or specific lanes under its respective jurisdiction for one-way traffic and shall erect official traffic control devices giving notice of that designation.

(2) ~~Upon~~ *On* a roadway designated by official traffic control devices for one-way traffic, a vehicle may be driven only in the direction designated.

(3) ~~A vehicle passing around a rotary traffic island or a roundabout may be driven only to the right of the island or the center of the roundabout.~~

(4) ~~For the purposes of this section, a "roundabout" is a circular intersection where all entering traffic must yield to the vehicles within the intersection."~~

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 61, chapter 8, part 3, and the provisions of Title 61, chapter 8, part 3, apply to [section 1].

Approved May 5, 2025

CHAPTER NO. 402

[SB 441]

AN ACT CREATING THE MONTANA BLOCK MANAGEMENT ENFORCEMENT NETWORK; ALLOWING LANDOWNERS TO OPT-IN OR OPT-OUT OF THE MONTANA BLOCK MANAGEMENT ENFORCEMENT NETWORK; CREATING ADDITIONAL RESTRICTIONS APPLICABLE TO LANDS ENROLLED IN THE MONTANA BLOCK MANAGEMENT ENFORCEMENT NETWORK; REQUIRING THE DEPARTMENT TO PROVIDE ADDITIONAL EDUCATION OPPORTUNITIES REGARDING THE MONTANA BLOCK MANAGEMENT ENFORCEMENT NETWORK; AND PROVIDING RULEMAKING AUTHORITY.

Be it enacted by the Legislature of the State of Montana:

Section 1. Montana block management enforcement network.

(1) The Montana block management enforcement network is intended to establish a framework for assisting landowners enrolled in the block management program established under 87-1-265 with enforcing compliance by hunters with the landowner's rules and Montana law.

(2) Landowners enrolled in the block management program may opt-in to the Montana block management enforcement network.

(3) By electing to opt-in to the Montana block management enforcement network, a landowner does not waive any right to deny access to any property enrolled in the block management program for cause. Additionally, a landowner may opt-out of the Montana block management enforcement network at any time and may allow an individual who is subject to the restrictions of subsection

(4) to access the landowner's property.

(4) Individuals accessing lands enrolled in the Montana block management enforcement network shall adhere to all rules governing access to the block management property. Any conviction based on a violation of those rules or any provision of Titles 45 or 87 by an individual while accessing lands enrolled in the block management program must result in the following:

(a) for a first conviction, the individual must be prohibited from accessing all lands participating in the Montana block management enforcement network for the remainder of the current license year;

(b) for a second conviction, the individual must be prohibited from accessing all lands participating in the Montana block management enforcement network for up to 3 consecutive license years; and

(c) for a third conviction, the individual must be prohibited from accessing all lands participating in the Montana block management enforcement network for life.

(5) The department shall provide educational information to individuals accessing private property under the block management program regarding the requirement to adhere to all rules governing access to those private lands and the consequences for violating those rules on private property enrolled in the Montana block management enforcement network.

(6) The commission may adopt rules to implement the provisions of this section.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 87, chapter 1, part 2, and the provisions of Title 87, chapter 1, part 2, apply to [section 1].

Approved May 5, 2025

CHAPTER NO. 403

[SB 442]

AN ACT EXCLUDING MANAGERS OF LICENSED LODGING ESTABLISHMENTS AS DEFINED IN 50-51-102 FROM REAL PROPERTY MANAGER LICENSING REQUIREMENTS; AMENDING SECTION 37-56-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-56-104, MCA, is amended to read:

“37-56-104. Exemptions from requirement of property manager license. (1) The property manager licensing provisions of this part do not apply to:

(a) an owner of a business entity that owns the property;

(b) an owner of a business entity that manages the property for an owner that is exempt under subsection (1)(a). However, all owners of the business entity that owns the property and all owners of the business entity that manages the property must be relatives as provided in subsection (1)(c) or (1)(d).

(c) the spouse of the property owner;

(d) the child, descendant of a child, sibling, parent, niece, nephew, aunt, or uncle of either the property owner or the spouse of the property owner;

(e) a person who leases no more than four residential real estate units;

(f) a person acting as attorney-in-fact under a power of attorney;

(g) an attorney at law in the performance of duties as an attorney;

(h) a person acting pursuant to a court order or a trustee;

(i) an officer of the state or a political subdivision in the conduct of official duties;

(j) a person who receives reduced rent or salary, unless that person holds signatory authority on the trust account;

(k) a person employed by the owner of the real estate if that person's property management duties are incidental to the person's other employment-related duties; ~~or~~

(l) a person managing an establishment licensed under Title 50, chapter 51; or

~~(l)~~*(m)* a person employed on a salaried basis by only one person.

(2) A broker or salesperson licensed under Title 37, chapter 51, may act as a property manager. A salesperson may not act as a property manager without a supervising broker.

(3) For the purposes of subsections (1)(a) and (1)(b), "owner" means a person who is a:

(a) sole proprietor;

(b) managing member of a limited liability company;

(c) shareholder of a corporation; or

(d) partner in a partnership."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 404

[SB 444]

AN ACT GENERALLY REVISING CRIMINAL PROCEDURE LAWS; REQUIRING A SEARCH WARRANT TO BE EXHIBITED TO A KNOWN LAWFUL OCCUPANT OF A PROPERTY TO BE SEARCHED; AMENDING SECTION 46-5-227, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-5-227, MCA, is amended to read:

"46-5-227. Service and return of search warrant. Service of a search warrant is made by exhibiting the original warrant or a duplicate original warrant at the place *to be searched*, ~~or~~ to the person to be searched, *or to a known lawful occupant of a property to be searched*. The officer taking property under the warrant shall give to the person from whom or from whose premises the property is taken a copy of the search warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. Failure to leave a copy and receipt may not render the property seized inadmissible at trial."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 405

[SB 457]

AN ACT REVISING ENFORCEMENT OF LEGISLATIVE SUBPOENAS; PROVIDING A PROCEDURE TO POLL THE MEMBERS OF THE HOUSE

OF REPRESENTATIVES OR THE SENATE WHEN A WITNESS OR PERSON COMPELLED TO PRODUCE RECORDS FAILS TO COMPLY WITH A LEGISLATIVE SUBPOENA; PROVIDING A MISDEMEANOR PENALTY OF CRIMINAL CONTEMPT OF THE LEGISLATURE; AMENDING SECTIONS 5-5-109 AND 5-11-107, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Procedure for certifying contempt of legislature.

(1) Either house of the legislature, a committee of either house, a committee established under legislative rules, a statutory committee, or an interim committee with power to issue a subpoena under 5-5-107 or 5-11-107 may commit a witness that fails to appear or a person that fails to produce records for criminal contempt of the legislature by following the procedure in this section.

(2) (a) If the legislature is in session when the failure to abide the subpoena occurs, a simple resolution setting forth the statement of facts in subsection (3) may be introduced in the chamber that issued the subpoena. A majority of members present may adopt the resolution, enter it into the journal, and commit the witness or person for contempt of the legislature.

(b) If the legislature is not in session when the violation occurs, a proclamation of contempt setting forth the statement of facts in subsection (3) may be sent to members of the chamber that issued the subpoena through a legislative poll under the provisions of subsection (4). A majority of the members of the relevant chamber may vote to adopt the proclamation of contempt and commit the witness or person for contempt of the legislature.

(3) (a) The simple resolution in subsection (2)(a) or the proclamation of contempt in subsection (2)(b) may be requested and signed by the speaker of the house for a subpoena in the house, the president of the senate for a subpoena in the senate, or the presiding officer of a committee provided for in subsection (1).

(b) The simple resolution or proclamation of contempt must include a statement of facts regarding the witness's failure to appear or the person's failure to produce any record pursuant to a subpoena issued under the authority of the legislature or a legislative committee.

(4) (a) A signed proclamation of contempt must be sent to the secretary of state to poll the members of the relevant chamber to determine if a majority of the members of the relevant chamber are in favor of adopting the proclamation of contempt and committing the witness or person for contempt of the legislature. If the proclamation of contempt involves a subpoena that was issued by a committee with voting members of both the house and the senate, the secretary of state shall poll both chambers.

(b) Within 3 calendar days after receiving a proclamation of contempt, the secretary of state shall send a ballot to all legislators of the relevant chamber by using any reasonable and reliable means, including electronic delivery, that contains:

(i) the proclamation of contempt; and

(ii) the date by which legislators shall return the ballot, which may not be more than 10 calendar days after the date the ballots were sent.

(c) A legislator may cast and return a vote by delivering the ballot in person, by mailing, or by sending the ballot by facsimile transmission or electronic mail to the office of the secretary of state. A legislator may not change the legislator's vote after the ballot is received by the secretary of state. The secretary of state shall tally the votes within 1 working day after the date for return of the votes. If a majority of the members of the relevant chamber vote to approve

the proclamation of contempt, the proclamation is considered adopted by the relevant chamber and the witness or person is in found to be in contempt of the legislature. A ballot that is not returned by the deadline established by the secretary of state is considered a vote against the proclamation of contempt. If the proclamation of contempt is sent to both chambers, a majority of the members of both chambers must vote to approve the proclamation of contempt for it to be adopted.

(5) Upon adoption of a simple resolution in subsection (2)(a) or the proclamation of contempt in subsection (2)(b), the speaker of the house for a subpoena in the house or the president of the senate for a subpoena in the senate shall certify the adopted resolution or proclamation of contempt to the attorney general for criminal contempt of the legislature and prosecution under [section 2].

Section 2. Criminal contempt of legislature. (1) Upon adoption of a resolution or proclamation of contempt under [section 1] the witness or person that is determined to be in contempt by the legislature must be charged with criminal contempt of the legislature, and convicted if the witness or person is found to have knowingly engage in the following conduct:

- (a) fails to appear as a witness;
- (b) appears as a witness but neglects or refuses to testify; or
- (c) fails to produce any record requested.

(2) A prosecution for criminal contempt of the legislature may only commence upon completion of the procedures set forth in [section 1].

(3) A person convicted of the offense of criminal contempt of the legislature is guilty of a misdemeanor and on conviction must be fined not to exceed \$1,000, or be imprisoned in the county jail for a term not to exceed 12 months, or both.

Section 3. Section 5-5-109, MCA, is amended to read:

“5-5-109. Contempt – misdemeanor. (1) If a witness neglects or refuses to obey a subpoena or, appearing, neglects or refuses to testify *before either house of the legislature, a committee of either house, a committee established under legislative rules, or a statutory committee or an interim committee*, the senate or house may, ~~by resolution entered on the journal,~~ commit the witness for criminal contempt *as provided in [section 1]*.

(2) If a person compelled to produce records under 5-5-107(3) neglects or refuses to obey a subpoena *before either house of the legislature, a committee of either house, a committee established under legislative rules, or a statutory committee or an interim committee*, the senate or house may, ~~by resolution entered on the journal,~~ commit the witness for contempt *as provided in [section 1]*.

(3) A person who ~~neglects or refuses to obey a subpoena under~~ violates subsection (1) or (2) *as determined by the senate or the house pursuant to [section 1]* is guilty of a ~~misdemeanor punishable~~ criminal contempt of the legislature *as provided in 46-18-212 [section 2].”*

Section 4. Section 5-11-107, MCA, is amended to read:

“5-11-107. Powers relating to hearings. (1) In the discharge of its duties, *a committee of either house, a committee established under legislative rules,* a statutory committee, or an interim committee may hold hearings, administer oaths, issue subpoenas, compel the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, and cause depositions of witnesses to be taken in the manner prescribed by law for taking depositions in civil actions in district court.

(2) If a person disobeys a subpoena issued by *a committee of either house, a committee established under legislative rules,* a statutory committee, or an interim committee or if a witness refuses to testify on any matters regarding which the witness may be lawfully interrogated, ~~the:~~

(a) the district court of any county shall, on application of the committee, compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from a district court or a refusal to testify in the district court; or

(b) the committee may pursue a legislative resolution or proclamation of contempt to commit the witness or person for the crime of criminal contempt of the legislature as provided in [sections 1 and 2].”

Section 5. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 5, chapter 5, part 1, and the provisions of Title 5, chapter 5, part 1, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 45, chapter 7, part 3, and the provisions of Title 45, chapter 7, part 3, apply to [section 2].

Section 6. Effective date. [This act] is effective July 1, 2025.

Approved May 5, 2025

CHAPTER NO. 406

[SB 458]

AN ACT ALLOWING FINANCING OF PUBLIC SAFETY AND RESILIENCY IMPROVEMENT PROJECTS THROUGH COMMERCIAL PROPERTY-ASSESSED CAPITAL ENHANCEMENTS PROGRAMS; AMENDING SECTIONS 90-4-1302, 90-4-1304, 90-4-1305, 90-4-1306, AND 90-4-1307, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 90-4-1302, MCA, is amended to read:

“90-4-1302. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) “Authority” means the Montana facility finance authority created in 2-15-1815.

(2) “Commercial property-assessed capital enhancements program” or “program” means a program established in accordance with this part.

(3) “District” means a district that is established under this part by a local government and that lies within the local government’s jurisdictional boundaries. A local government may create more than one district under a program.

(4) “Energy conservation measure” means a permanent cost-effective energy improvement fixed to real property, including new construction, and intended to decrease energy or water consumption and demand, including a product, device, or interacting group of products or devices on the customer’s side of the meter that uses energy technology to generate electricity, provide thermal energy, or regulate temperature. The term includes but is not limited to:

(a) insulation in walls, roofs, floors, foundations, or heating and cooling distribution systems;

(b) storm windows and doors, including multiglazed windows and doors, heat-absorbing or heat-reflective glazed windows, coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;

(c) automated energy control systems;

(d) heating, ventilating, or air-conditioning and distribution system modifications or replacements;

(e) caulking, weather-stripping, or air sealing;

(f) replacement or modification of lighting fixtures to reduce the energy use of the lighting system;

(g) energy recovery systems;

(h) daylighting systems;

(i) installation or upgrades of electrical wiring or outlets to charge a motor vehicle that is fully or partially powered by electricity;

(j) fuel source changes that result in cost savings;

(k) measures to reduce the usage of water or to increase the efficiency of water usage; and

(l) any other installation or modification of equipment, devices, or materials approved as a utility cost-saving measure by the governing body.

(5) "Energy conservation project" means the installation or modification of an energy conservation measure or the acquisition, installation, or improvement of a renewable energy system.

(6) "Governing body" means the legislative authority of a local government.

(7) "Local government" means a county, city, town, or a consolidated city-county.

(8) (a) "Person" means an individual, firm, partnership, association, corporation, unincorporated joint venture, or trust that is organized, permitted, or existing under the laws of this state or any other state, including a federal corporation, or a combination of individuals, firms, partnerships, associations, corporations, unincorporated joint ventures, or trusts.

(b) The term does not include a local government.

(9) *"Public safety and resiliency improvement" means one or more fixed installations or modifications to eligible commercial real property that are designed to improve a property's public safety or resiliency by improving the eligible real property's:*

(a) structural integrity for seismic events;

(b) indoor air quality;

(c) durability to resist wind, fire, and flooding;

(d) ability to withstand an electric power outage;

(e) stormwater control measures, including structural and nonstructural measures to mitigate stormwater runoff; and

(f) firearm storage infrastructure for use by the public pursuant to a firearm hold agreement as provided in 27-1-748.

(10) *"Public safety and resiliency improvement project" means the installation or modification of a public safety and resiliency improvement.*

(9)(11) "Real property" means a privately owned commercial or industrial facility, covered multifamily housing accommodation as defined in 49-2-305(6), or agricultural property.

(10)(12) "Record owner" means the person or persons possessing the most recent fee title as shown by the records of the county clerk and recorder.

(11)(13) "Renewable energy" has the meaning provided in 15-24-3102.

(12)(14) "Renewable energy system" means a fixture, product, device, or interacting group of fixtures, products, or devices on the customer's side of the meter that uses one or more forms of renewable energy to generate electricity or to reduce the use of nonrenewable energy. The term includes a biomass stove but does not include an incinerator or a digester."

Section 2. Section 90-4-1304, MCA, is amended to read:

"90-4-1304. Program authorized -- contracts. (1) In accordance with 90-4-1305 and 90-4-1306, a governing body may establish a commercial property-assessed capital enhancements program and may create a district or districts under the program.

(2) (a) The governing body may enter into a contract with a record owner of real property within a district to finance one or more energy conservation projects *or public safety and resiliency improvement projects* on the real property included in a district in accordance with this part.

(b) The contract may provide for the repayment of the cost of an energy conservation project *or public safety and resiliency improvement project* through an assessment in accordance with 90-4-1307 on real property. The financing to be repaid through assessments must be provided by a third party.

(c) Financing may include the cost of materials and labor necessary for the installation or modification of energy conservation projects *or public safety and resiliency improvement projects*, permit fees, inspection fees, application and administrative fees, bank fees, and all other fees incurred by the record owner for the energy conservation project *or public safety and resiliency improvement project* on a specific or pro rata basis, as determined by the governing body.”

Section 3. Section 90-4-1305, MCA, is amended to read:

“90-4-1305. Elements of program plan – contract requirements.

(1) Prior to establishing a program in accordance with 90-4-1306, the authority shall prepare a program plan. Subject to subsections (2) through (4), the program plan must include:

(a) provisions for marketing the program and providing participant education;

(b) the types of energy conservation projects *or public safety and resiliency improvement projects* that may be financed under the program;

(c) options for raising capital to finance energy conservation projects *or public safety and resiliency improvement projects* under the program. Options may include but are not limited to owner-arranged financing from a commercial lender. If owner-arranged financing is used, the governing body may impose an assessment pursuant to 90-4-1307 and make payments to the authority, and the authority will distribute those payments to the commercial lender.

(d) quality assurances and antifraud measures;

(e) minimum requirements for a contractor to complete an energy conservation project *or public safety and resiliency improvement project*;

(f) clearly defined work standards for contractors;

(g) contractor management systems and procedures designed to monitor contractor performance and to manage, track, and resolve consumer complaints; and

(h) a description of the proposed financial arrangement and contract terms between the local government and record owners pursuant to subsection (3).

(2) (a) A program plan for energy conservation projects must include an energy analysis completed by a third party to determine cost and energy savings.

(b) Energy savings calculations and analysis completed in accordance with subsection (2)(a) must be completed by a licensed or certified building professional approved by the authority.

(c) When an energy conservation project is completed, the contractor who completed the project shall submit written verification to the authority that the energy conservation project was properly installed and is operating as intended.

(3) A proposed financial arrangement must be included in a program plan in accordance with subsection (1)(c) and must include:

(a) application, administration, or other program fees that will be charged to record owners participating in the program that will be used to finance costs incurred by the authority, local government, or both as a result of the program;

(b) a requirement that a contract between the governing body and a record owner is invalid and unenforceable unless the holder of a mortgage, trust indenture beneficiary, or loan servicer provides the governing body with each of the following:

(i) an executed subordination agreement, properly notarized and executed within 3 months prior to the application for a contract;

(ii) a record of the subordination agreement from the office of the county clerk and recorder in the county where the property is located; and

(iii) a secretary's certificate or substantially similar certification that the person who executed the subordination agreement is authorized to sign such an agreement on behalf of the mortgage holder, trust indenture beneficiary, or loan servicer; and

(c) a model contract between a governing body and a record owner containing the terms and conditions of financing and an assessment that meets the requirements of 90-4-1307 under the program. The model contract must include full disclosure of costs, including the effective interest rate of the assessment in accordance with 90-4-1307, any administrator fees, the estimated payment schedule, and the placement of a lien on the real property.

(4) (a) Prior to a local government and a record owner for a commercial property-assessed capital enhancements project entering into a contract under a program established pursuant to 90-4-1306, the authority shall obtain independent verification from the record owner that the record owner understands and accepts the terms of the contract and shall make the verification available to the local government.

(b) The contract must allow the record owner to cancel the contract within 3 business days of signing the contract.

(c) The contract must include full disclosure that by entering into the contract, the record owner may incur a property tax lien on the real property included under the contract.

(5) The contract must include requirements that contractors and any subcontractors use a skilled and trained workforce. Contracts signed must require contractors and subcontractors to give preference to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the projects, if the Montana residents have substantially equal qualifications to those of nonresidents."

Section 4. Section 90-4-1306, MCA, is amended to read:

"90-4-1306. Establishment of program. (1) To establish a commercial property-assessed capital enhancements program, a governing body shall:

(a) adopt a resolution of intent that includes:

(i) a statement of intent to establish a commercial property-assessed capital enhancements program describing the role of the governing body and the role of the authority in administering the program;

(ii) the types of energy conservation projects or *public safety and resiliency improvement projects* that may be included in the program;

(iii) a reference to the program plan required by 90-4-1305 and a location where the plan is available for public inspection; and

(iv) the time and place for a public hearing on the proposed program;

(b) hold a public hearing at which the public may comment on the proposed program and the program plan required by 90-4-1305; and

(c) adopt a resolution establishing the program and setting the terms and conditions of the program, including:

(i) how the governing body will meet the program plan requirements established by the authority in 90-4-1305. To meet the requirement of this subsection (1)(c)(i), the resolution may incorporate a program plan or an amended version of a program plan by reference.

(ii) a description of the aspects of the program that may be changed without a public hearing and the aspects that may be changed only after a public hearing;

(iii) identification of an official authorized to enter into a program contract on behalf of the program with entities providing funding for the program; and

(iv) identification of an official authorized to enter into a program contract on behalf of the governing body with record owners.

(2) A commercial property-assessed capital enhancements program may be changed by resolution of the governing body. Adoption of the resolution must be preceded by a public hearing if required pursuant to subsection (1)(c)(ii)."

Section 5. Section 90-4-1307, MCA, is amended to read:

"90-4-1307. Assessments. (1) (a) A local government may impose an assessment under a commercial property-assessed capital enhancements program pursuant to a written contract with the record owner of the real property to be assessed.

(b) The term of the assessment may not exceed the useful life of an energy conservation project or *public safety and resiliency improvement project* paid for by the assessment.

(2) Before entering into a contract with a record owner under a program, the local government shall verify that:

(a) delinquent taxes, special assessments, or water or sewer charges are not due on the real property; and

(b) delinquent assessments on the real property under a commercial property-assessed capital enhancements program are not due.

(3) (a) An assessment imposed under a commercial property-assessed capital enhancements program, including any interest on the assessment and any penalty, constitutes a program lien against the real property on which the assessment is imposed from the date of the assessment until the assessment, including any interest or penalty, is paid in full. The lien is for outstanding assessments only, runs with the real property, and has the same priority and status as other property tax and assessment liens.

(b) A governing body has the same rights in the case of delinquency in the payment of an assessment as it does with respect to delinquent property taxes. When the assessment, including any interest and penalty, is paid, the lien must be removed from the real property.

(4) (a) Except as provided in subsection (4)(b), installments of assessments due under a program must be included in each tax bill issued under 15-16-101 and must be collected at the same time and in the same manner as taxes collected under Title 15, chapter 16.

(b) Installments may be billed and collected as provided in a special assessment ordinance of general applicability adopted by a local government."

Section 6. Effective date. [This act] is effective October 1, 2025.

Approved May 5, 2025

CHAPTER NO. 407

[SB 482]

AN ACT REQUIRING A WRITTEN CONTRACT RELATING TO A COLLEGE ATHLETE'S STUDENT-ATHLETE RIGHTS, INCLUDING NAME, IMAGE, AND LIKENESS; AMENDING SECTIONS 20-1-232 AND 28-2-903, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-1-232, MCA, is amended to read:

“20-1-232. Student-athlete rights and protections – definitions.

(1) As used in this section, the following definitions apply:

(a) “Postsecondary institution” means a 2-year or 4-year public or private college or university located in the state.

(b) (i) “Student-athlete rights” means the rights of a student-athlete enrolled in a postsecondary institution to earn compensation for the use of the student-athlete’s name, image, or likeness and to contract with and retain professional representation of an athlete agent.

(ii) The term does not include a right to receive compensation from a postsecondary institution.

(2) Except as provided in subsections (3) through ~~(6)~~ (7), a postsecondary institution or an athletic association, conference, or organization with authority over intercollegiate sports may not:

(a) prohibit, prevent, or restrict a student-athlete from exercising the student-athlete’s rights;

(b) penalize or retaliate against a student-athlete for exercising the student-athlete’s rights;

(c) prohibit a student-athlete from participating in an intercollegiate sport for exercising the student-athlete’s rights; or

(d) subject to subsection (5)(a), impose an eligibility requirement on a scholarship or grant that requires a student-athlete to refrain from exercising the student-athlete’s rights.

(3) (a) A student-athlete may not enter into a contract that provides compensation to the student-athlete for the use of the student-athlete’s name, image, or likeness if terms of the contract conflict with the student-athlete’s team rules or with terms of a contract entered into between the student-athlete’s postsecondary institution and a third party, except the team rules or a contract entered into between the postsecondary institution and a third party may not prevent a student-athlete from earning compensation for the use of the student-athlete’s name, image, or likeness when not engaged in official team activities.

(b) A student-athlete who enters into a contract that provides compensation to the student-athlete for the use of the student-athlete’s name, image, or likeness shall disclose the contract to an official of the postsecondary institution if the student-athlete is a team member or, if the student-athlete is not a team member, at the time the student-athlete seeks to become a team member.

(c) If a postsecondary institution asserts that the terms of the contract conflict with the team rules or with terms of a contract entered into between the student-athlete’s postsecondary institution and a third party, the unit shall disclose the specific rules or terms asserted to be in conflict to the student-athlete or to the student-athlete’s professional representative or athlete agent if the student-athlete is represented.

(4) A postsecondary institution or an athletic association, conference, or organization with authority over intercollegiate sports may not provide to a prospective or current student-athlete compensation for use of the student-athlete’s name, image, or likeness.

(5) A postsecondary school may:

(a) include provisions in scholarship agreements allowing the postsecondary school to use the athlete’s name, image, and likeness;

(b) prohibit the use of an athlete’s name, image, and likeness on school property, at school functions, or in any advertising material distributed or placed on school property;

(c) serve as an agent for the athlete to manage any contract using an athlete’s name, image, and likeness; or

(d) do any combination of subsections (5)(a) through (5)(c).

(6) Nothing in this section prohibits a postsecondary institution from establishing or enforcing a conduct code that is applicable to all students enrolled at the unit.

(7) A contract made pursuant to this section must comply with the written requirements of 28-2-903."

Section 2. Section 28-2-903, MCA, is amended to read:

"28-2-903. What contracts must be in writing. (1) The following agreements are invalid unless the agreement or some note or memorandum of the agreement is in writing and subscribed by the party to be charged or the party's agent:

(a) an agreement that by its terms is not to be performed within a year from the making of the agreement;

(b) a special promise to answer for the debt, default, or miscarriage of another, except in the cases provided for in 28-11-105;

(c) an agreement made upon consideration of marriage other than a mutual promise to marry;

(d) an agreement for the leasing for a longer period than 1 year or for the sale of real property or of an interest in real property. The agreement, if made by an agent of the party sought to be charged, is invalid unless the authority of the agent is in writing and subscribed by the party sought to be charged.

(e) an agreement authorizing or employing an agent or broker to purchase or sell real estate for compensation or a commission; or

(f) an agreement relating to a college athlete's student-athlete rights, as defined in 20-1-232, including but not limited to a student's name, image, and likeness.

(2) Evidence of an agreement described in subsections (1)(a) through ~~(1)(d)~~ (1)(f) is not admissible without the writing or secondary evidence of the writing's contents.

(3) Evidence is not admissible to charge a person upon a representation as to the credit of a third person unless the representation or some memorandum of the representation is in writing and either subscribed by or in the handwriting of the party to be charged.

(4) Subsections (1) and (2) do not apply to agreements subject to the Uniform Commercial Code."

Section 3. Effective date. [This act] is effective June 1, 2025.

Approved May 5, 2025

CHAPTER NO. 408

[SB 486]

AN ACT REVISING REMITTANCES FOR THE MONTANA SPECIAL NEEDS EQUAL OPPORTUNITY EDUCATION SAVINGS ACCOUNT TO ALLOW A SCHOOL DISTRICT TO ELECT TO HAVE THE OFFICE OF PUBLIC INSTRUCTION PAY THE REMITTANCE AMOUNT IN THE FIRST YEAR OF A STUDENT'S PARTICIPATION IN THE PROGRAM; AMENDING SECTION 20-7-1709, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-7-1709, MCA, is amended to read:

"20-7-1709. Montana special needs equal opportunity education savings account – funding and administration. (1) Following receipt of a signed contract pursuant to 20-7-1705, the superintendent of public instruction

shall notify the resident school district of the qualifying student's participation in the program and the amount calculated by dividing the student's ESA student amount by 10.

(2) (a) Beginning with the next distribution of BASE aid payments pursuant to 20-9-344 for the months of August through May, the resident school district shall remit to the office of public instruction the amount calculated in subsection (1) for each participating student by no later than the 10th of the month following the BASE aid distribution.

(b) *A school district may elect to have the office of public instruction provide the amount calculated under subsection (1) in the first year of a student's participation in the program in the school district. In this circumstance:*

(i) *the office of public instruction shall use money from the BASE aid appropriation and account for the money as provided in subsection (4); and*

(ii) *in the first year in which the student is no longer participating in the program in the school district, the office of public instruction shall reduce the school district's BASE aid payment by an amount equivalent to the amount provided by the office of public instruction under this subsection (2)(b), increased by the same inflationary adjustment provided by the legislature for the basic and per-ANB entitlement amounts calculated as provided in 20-9-306 since the student's first year of participation in the program in the school district.*

(3) The money remitted under subsection (2):

(a) must be from the district's general fund;

(b) may not include revenue from the guarantee account described in 20-9-622; and

(c) must be accounted for under rules adopted by the superintendent of public instruction.

(4) The superintendent of public instruction shall account for the money remitted under subsection (2) as follows:

(a) 95% of the money must be deposited in accounts within the special needs equal opportunity education savings trust established in 20-7-1710 to be used only for reimbursing parents for the purchase of allowable educational resources pursuant to 20-7-1704; and

(b) 5% of the money must be deposited in the office of public instruction special needs equal opportunity ESA administration account established in subsection (7).

(5) The office of public instruction shall ensure that the participating student is included in the resident school district's ANB calculation pursuant to 20-9-311 in any year that the student remains otherwise eligible for inclusion and participates in the program. No other school district may count the student for ANB purposes. The participating student is not considered to be enrolled in the resident school district.

(6) The office of public instruction shall administer the individual student accounts pursuant to subsection (4)(a) so that:

(a) reimbursements are made promptly to parents for the purchase of allowable educational resources for a participating student pursuant to 20-7-1704; and

(b) on a student's 24th birthday, the student's account is closed and any remaining funds in the student's account are returned to the guarantee account described in 20-9-622.

(7) (a) There is an office of public instruction special needs equal opportunity ESA administration account within the state special revenue fund created in 17-2-102 consisting of 5% of the money remitted to the office of public instruction pursuant to subsection (2).

(b) Funds in the office of public instruction special needs equal opportunity ESA administration account are statutorily appropriated, as provided in 17-7-502, to the office of public instruction and must be used for the costs of administering the program.”

Section 2. Effective date. [This act] is effective July 1, 2025.

Approved May 5, 2025

CHAPTER NO. 409

[SB 490]

AN ACT REVISING LATE VOTER REGISTRATION; REVISING THE DAYS AND TIMES AN ELECTOR MAY REGISTER LATE, CHANGE THE ELECTOR'S VOTER REGISTRATION INFORMATION, AND VOTE IN A FEDERAL ELECTION; AND AMENDING SECTIONS 13-2-304 AND 13-21-104, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-2-304, MCA, is amended to read:

“13-2-304. Late registration – late changes. (1) Except as provided in 13-21-104 and ~~subsection (2)~~ *subsections (2) and (3)* of this section, the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to noon the day before the election.

(b) Except as provided in 13-2-514(2)(a) and subsection (1)(c) of this section, an elector who registers or changes the elector's voter information pursuant to this section may vote in the election if the elector obtains the ballot from the location designated by the county election administrator.

(c) With respect to an elector who registers late pursuant to this section for a school election conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register.

(d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot as follows:

(i) before election day, to a location designated by the county election administrator or school clerk if the election is administered by the school district; or

(ii) on election day, to the election office or to any polling place in the county where the elector is registered to vote or, if the ballot is for a school election, to any polling place in the school district where the election is being conducted.

(2) If an elector has already been issued a ballot for the election, the elector may change the elector's voter registration information only if the original voted ballot has not been received at the county election office, or received by the school district if the district is administering the election, and if the original ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by the school district if the district is administering the election, prior to the change.

(3) *In a federal election, an elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information:*

- (a) *prior to the close of business on the Friday before the election;*
- (b) *between 8 a.m. and 5 p.m. on the Saturday before the election; and*
- (c) *prior to noon on the day of the election."*

Section 2. Section 13-21-104, MCA, is amended to read:

"13-21-104. Adoption of rules on electronic registration and voting – acceptance of funds. (1) The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

(2) The rules must provide that:

(a) there are uniform statewide standards concerning electronic registration and voting;

(b) regular absentee ballots for a primary, general, or special election are available in a format that allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant to 13-13-205;

(c) a covered voter may, *subject to 13-2-304*, register and vote up to the time that the polls close on election day;

(d) a covered voter is allowed to cast a provisional ballot if there is a question about the elector's registration information or eligibility to vote;

(e) a covered voter with a digital signature is allowed the option of using the digital signature as provided in 13-21-107; and

(f) a ballot cast by a covered voter and transmitted electronically will remain secret, as required by Article IV, section 1, of the Montana constitution. This subsection (2)(f) does not prohibit the adoption of rules establishing administrative procedures on how electronically transmitted votes must be transcribed to an official ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

(3) The secretary of state may apply for and receive a grant of funds from any agency or office of the United States government or from any other public or private source and may use the money for the purpose of implementing this chapter."

Section 3. Nonseverability. It is the intent of the legislature that each part of [this act] is essentially dependent upon every other part, and if one part is held unconstitutional or invalid, all other parts are invalid.

Approved May 5, 2025

CHAPTER NO. 410

[SB 493]

AN ACT CREATING THE OFFENSE OF CRIMINAL TRESPASS BY UNMANNED AERIAL VEHICLE; PROVIDING EXCEPTIONS; PROVIDING A DEFINITION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Criminal trespass by unmanned aerial vehicle – exceptions. (1) Except as provided in subsection (3), a person commits the offense of criminal trespass by unmanned aerial vehicle if the person knowingly causes an unmanned aerial vehicle to fly 200 feet or lower over the property or residence of another person without the authorization of the property owner or resident.

(2) A person convicted of the offense of criminal trespass by unmanned aerial vehicle shall be fined \$500.

(3) Subsection (1) does not apply to the operation of an unmanned aerial vehicle system:

(a) conducted by a unit or agency of the federal government, the state, or a tribal or local government, including any individual conducting an operation pursuant to contract or other agreement entered into with the unit or agency, for the purpose of protecting the public safety, environment, and welfare, including firefighting, law enforcement, and emergency response;

(b) by a peace officer acting in accordance with 46-5-109;

(c) within the boundaries of an easement with the permission of the owner of the dominant tenement;

(d) being used by an employee or contractor of a utility as defined in 69-5-102 or a provider of broadband service as defined in 90-1-602 to help assess property damage or catastrophe damage or to inspect property and equipment, including cell towers and wireless telecommunications infrastructure and including the deployment of drones; or

(e) by an owner or operator of the system who has an active license issued by the federal aviation administration and is operating the system for legitimate business purposes in a manner consistent with applicable federal aviation administration rules, licenses, and exemptions.

(4) As used in this section, "unmanned aerial vehicle" has the same meaning as provided in 76-13-102.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 45, chapter 6, part 2, and the provisions of Title 45, chapter 6, part 2, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 411

[SB 498]

AN ACT REVISING PREPARATION PROCEDURES FOR PRIMARY ELECTIONS; AMENDING SECTION 13-10-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-10-311, MCA, is amended to read:

"13-10-311. Election judges' duties when preparing for count.

(1) Except as otherwise provided in this section, election judges at the primary election shall prepare for a count of votes in the manner prescribed in 13-15-201.

(2) In preparing for a count, the election judges shall:

~~(a) separate the ballots for each political party and count each party's ballots separately;~~

~~(b)(a)~~ reconcile the total number of party ballots and the separate total number of other ballots used at the election with the number of electors voting. Any discrepancies in the reconciliations must be handled as provided in 13-15-201.

~~(c)(b)~~ list each party's candidates separately in the tally books; and

~~(d)(c)~~ bundle the voted ballots for each party separately for return to the election administrator. The unvoted ballots must be bundled in accordance with rules established pursuant to 13-12-202.

(3) In counties where ballots are solely counted by hand, election judges shall separate the ballots for each political party and count each party's ballots separately."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 412

[SB 508]

AN ACT PROVIDING THAT ANY LEVEL OF TETRAHYDROCANNABINOL CONSTITUTES DRIVING UNDER THE INFLUENCE FOR DRIVERS UNDER 21 YEARS OF AGE; AND AMENDING SECTION 61-8-1002, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-8-1002, MCA, is amended to read:

"61-8-1002. Driving under influence. (1) A person commits the offense of driving under the influence if the person drives or is in actual physical control of:

(a) a vehicle or a commercial motor vehicle upon the ways of this state open to the public while under the influence of alcohol, any drug, or a combination of alcohol and any drug;

(b) a noncommercial vehicle upon the ways of this state open to the public while the person's alcohol concentration, as shown by analysis of the person's blood, breath, or other bodily substance, is 0.08 or more;

(c) a commercial motor vehicle within this state while the person's alcohol concentration, as shown by analysis of the person's blood, breath, or other bodily substance, is 0.04 or more;

(d) a noncommercial vehicle or commercial motor vehicle within this state while the person's tetrahydrocannabinol level, excluding inactive metabolites, as shown by analysis of the person's blood or other bodily substance, is 5 ng/ml or more; or

(e) (i) a vehicle within this state when the person is under 21 years of age at the time of the offense while the person's alcohol concentration, as shown by analysis of the person's blood, breath, or other bodily substance, is 0.02 or more; or

(ii) a vehicle within this state when the person is under 21 years of age at the time of the offense and the person has any amount of tetrahydrocannabinol, excluding inactive metabolites, in the person's body as shown by analysis of the person's blood or other bodily substance.

(2) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person driving or in actual physical control of a vehicle while under the influence of alcohol, the concentration of alcohol in the person at the time of a test, as shown by analysis of a sample of the person's blood, breath, or other bodily substance drawn or taken within a reasonable time after the alleged act, gives rise to the following inferences:

(a) if there was at that time an alcohol concentration of 0.04 or less, it may be inferred that the person was not under the influence of alcohol;

(b) if there was at that time an alcohol concentration in excess of 0.04 but less than 0.08, that fact may not give rise to any inference that the person was or was not under the influence of alcohol, but the fact may be considered with other competent evidence in determining the guilt or innocence of the person; and

(c) if there was at that time an alcohol concentration of 0.08 or more, it may be inferred that the person was under the influence of alcohol. The inference is rebuttable.

(3) The provisions of subsection (2) do not limit the introduction of any other competent evidence bearing on the issue of whether the person was under the influence of alcohol, drugs, or a combination of alcohol and drugs.

(4) Each municipality in this state is given authority to enact this section, with the word “state” changed to read “municipality”, as an ordinance and is given jurisdiction of the enforcement of the ordinance and the imposition of the fines and penalties provided in the ordinance.

(5) Absolute liability, as provided in 45-2-104, is imposed for a violation of this section.

(6) When the same acts may establish the commission of an offense under subsection (1), a person charged with the conduct may be prosecuted for a violation of another relevant subsection under subsection (1). However, the person may be convicted of only one offense under this section or of a similar offense under previous laws of this state.”

Approved May 5, 2025

CHAPTER NO. 413

[SB 511]

AN ACT GENERALLY REVISING LAWS RELATING TO LITIGATION FINANCING; AMENDING THE LITIGATION FINANCING TRANSPARENCY AND CONSUMER PROTECTION ACT; CREATING THE FOREIGN INVESTMENT IN LITIGATION FINANCING ACT; PROVIDING A PROHIBITION ON LITIGATION FUNDING BY CERTAIN FOREIGN ENTITIES; PROVIDING FOR REGISTRATION AND TRANSPARENCY OF FOREIGN PERSONS; AMENDING DEFINITIONS; AMENDING SECTIONS 31-4-102, 31-4-104, 31-4-108, 31-4-118, AND 31-4-120, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 31-4-102, MCA, is amended to read:

“31-4-102. Definitions. For the purposes of this part, the following definitions apply:

(1) “Consumer” means any ~~individual who resides, is present, or is domiciled in this state or person~~ who is or may become a plaintiff, claimant, or complainant ~~in conjunction with or in pursuit of a legal claim a civil action or an administrative proceeding or in pursuit of any claim or cause of action in this state.~~

(2) “Entity” means any domestic or foreign corporation, partnership, limited partnership, limited liability company, trust, fund, plan, or any other business, enterprise, association, or organization of any kind or nature.

(3) “Legal claim” means a civil action, administrative proceeding, claim, or cause of action to recover damages or any form of monetary or injunctive relief in this state.

~~(3)(4)~~ “Legal representative” means ~~any an attorney; or group of attorneys; or law firm or group of law firms duly licensed and authorized to practice law and engaged to represent a consumer in conjunction with or in pursuit of a legal claim a civil action, administrative proceeding, or claim to recover damages in this state.~~

(4)(5) (a) "Litigation financier" means any person or group of persons engaged in, or formed, created, or established for the purpose of engaging in, the business of litigation financing or any other business or economic activity in which a person or group of persons receive consideration of any kind in exchange for providing litigation financing.

(b) *The term does not include:*

(i) *a party to the legal claim;*
(ii) *a legal representative engaged directly, or indirectly through another legal representative, to represent a party in conjunction with or in pursuit of the legal claim; or*

(iii) *an entity or insurer with a preexisting contractual obligation to indemnify or defend a party to a legal claim.*

(5)(6) "Litigation financing" means:

(a) *the financing, funding, advancing, or loaning of money to a legal representative or to any person who has or may pursue or assert a legal claim or who is or may become a plaintiff in conjunction with or in pursuit of a legal claim if:*

(i) *repayment of all or a portion of the amount financed, funded, advanced, or loaned is contingent in any respect on the outcome of a legal claim or group of legal claims;*

(ii) *repayment is required only if the person prevails in conjunction with or in pursuit of a legal claim; or*

(iii) *the money or funds for the repayment of any amount of the financing, funding, advance, or loan is derived or sourced, directly or indirectly, from the proceeds of or other consideration realized from a judgment, award, settlement, verdict, or other form of monetary relief the person or legal representative may receive or recover in conjunction with or in pursuit of a legal claim or group of legal claims; or to pay for fees, costs, expenses, or any other sums arising from or in any manner related to a civil action, administrative proceeding, claim, or cause of action, if the financing, funding, advancing, or loaning of money is provided by any person other than a person who is:*

(a) *a party to the civil action, administrative proceeding, claim, or cause of action;*

(b) *a legal representative engaged, directly or indirectly through another legal representative, to represent a party in the civil action, administrative proceeding, claim, or cause of action; or*

(c) *an entity or insurer with a preexisting contractual obligation to indemnify or defend a party to the civil action, administrative proceeding, claim, or cause of action*

(b) *any agreement or arrangement involving the financing, funding, advancing, or loaning of money to a legal representative if the repayment of all or a portion of the amount financed, funded, advanced, or loaned is contingent on the outcome of any single legal claim or group of legal claims in which the legal representative represents one or more consumers.*

(6)(7) (a) "Litigation financing contract" means a written contract in which a person agrees to provide litigation financing to any person ~~in conjunction with a civil action or an administrative proceeding or in pursuit of any claim or cause of action in this state in consideration for:~~

(i) *the payment of interest, fees, or other consideration to the person providing the litigation financing; or*

(ii) *granting or assigning to the person providing the litigation financing a right to receive payment from the value of any proceeds or other consideration realized from any judgment, award, settlement, verdict, or other form of monetary relief any consumer, legal representative, or other person may*

receive or recover in relation to the *legal claim civil action, administrative proceeding, claim, or cause of action.*

(b) The term includes an agreement related to a litigation financing contract.

~~(b)(c)~~ The term does not include any agreement, contract, or engagement of a legal representative to render legal services to a consumer on a contingency fee basis, including the advancement of legal costs by the legal representative, in which the services or costs are provided to or on behalf of a consumer by the legal representative representing the consumer in the *legal claim civil action, administrative proceeding, claim, or cause of action.*

~~(7)(8)~~ “Person” ~~means includes~~ an individual ~~and~~ or an entity.

(9) “Proprietary information” means any documents, records, or information received by a party in conjunction with or in pursuit of a legal claim that has economic or commercial value in any person’s business and is:

(a) designated as proprietary information by a party to the legal claim; or

(b) subject to a court order to protect, seal, or otherwise restrict the disclosure or sharing of the documents, records, or information.

~~(8)(10)~~ “Regulated lender” has the same meaning as in 31-1-111.

~~(9)(11)~~ “Secretary” means the secretary of state provided for in Title 2, chapter 15, part 4.”

Section 2. Section 31-4-104, MCA, is amended to read:

“31-4-104. Litigation financing protections. (1) A litigation financier may not:

(a) pay or offer commissions, referral fees, rebates, or other forms of consideration to any person in exchange for referring a consumer to a litigation financier;

(b) accept any commissions, referral fees, rebates, or other forms of consideration from any person providing any goods or rendering any services to the consumer;

(c) charge a rate of interest that exceeds ~~that~~ *the* rate of interest allowed under 31-1-107;

(d) receive or recover any payment that exceeds 25% of the amount of any judgment, award, settlement, verdict, or other form of monetary relief obtained in the civil action, administrative proceeding, claim, or cause of action that is the subject of the litigation contract;

(e) advertise false or misleading information regarding its products or services;

(f) refer or require any consumer to hire or engage any person providing any goods or rendering any services to the consumer;

(g) fail to promptly deliver a fully completed and signed litigation financing contract to the consumer and the consumer’s legal representative;

(h) attempt to secure a remedy or obtain a waiver of any remedy, including but not limited to compensatory, statutory, or punitive damages, that the consumer may or may not be entitled to pursue or recover otherwise;

(i) offer or provide legal advice to the consumer;

(j) assign, including securitizing, a litigation financing contract in whole or in part;

(k) report a consumer to a credit reporting agency if insufficient funds remain to repay the litigation financier in full from the proceeds received from any judgment, award, settlement, verdict, or other form of monetary relief obtained in the civil action, administrative proceeding, claim, or cause of action that is the subject of the litigation financing contract; ~~and~~

(l) make a decision, influence, or direct a decision regarding a legal claim to recover damages including decisions in appointing or changing counsel, choice or use of expert witnesses, litigation strategy, and settlement or other resolution; or

(4)(m) demand, request, receive, or exercise any right to influence, affect, or otherwise make any decision in the handling, conduct, administration, litigation, settlement, or resolution of any civil action, administrative proceeding, claim, or cause of action in which the litigation financier has provided litigation financing. All rights remain solely with the consumer and the consumer's legal representative.

(2) A person who provides any goods or renders any services to the consumer may not have a financial interest in litigation financing and may not receive any commissions, referral fees, rebates, or other forms of consideration from any litigation financier or the litigation financier's employees, owners, or affiliates.

(3) *A party, attorney or law firm representing a party, or affiliated attorney or law firm may not disclose or share any information with a litigation financier that is subject to a protective or sealing order from a court.*

(4) *A party to a legal claim may not disclose to or share with a litigation financier any proprietary information received in the course of or in conjunction with a legal claim."*

Section 3. Section 31-4-108, MCA, is amended to read:

"31-4-108. Disclosure and discovery of litigation financing contracts. (1) Except as otherwise stipulated or ordered by a court of competent jurisdiction, a consumer or the consumer's legal representative *or a party or a party's legal representative* shall, without awaiting a discovery request, disclose and deliver to the following persons the litigation financing contract:

(a) each party to the civil action, administrative proceeding, claim, or cause of action, or to each party's legal representative;

(b) the court, agency, or tribunal in which the civil action, administrative proceeding, claim, or cause of action may be pending; and

(c) any known person, including an insurer, with a preexisting contractual obligation to indemnify or defend a party to the civil action, administrative proceeding, claim, or cause of action.

(2) The disclosure obligation under subsection (1) exists regardless of whether a civil action or an administrative proceeding has commenced.

(3) The disclosure obligation under subsection (1) is a continuing obligation, and within 30 days of entering into a litigation financing contract or amending an existing litigation financing contract, the consumer or the consumer's legal representative *or a party or a party's legal representative* shall disclose and deliver any new or amended litigation financing contracts.

(4) The existence of the litigation financing contract and all participants or parties to a litigation financing contract are permissible subjects of discovery in any civil action, administrative proceeding, claim, or cause of action to which litigation financing is provided under the litigation financing contract, regardless of whether a civil action or an administrative proceeding has commenced."

Section 4. Section 31-4-118, MCA, is amended to read:

"31-4-118. Exemptions. This part does not apply to the following:

(1) a nonprofit entity that *is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code or a nonprofit entity that provides litigation financing, directly or indirectly, for the benefit of the nonprofit or one or more of its members without receiving funding, or money to a legal representative to represent a consumer on a pro bono basis, provided that the nonprofit entity does not receive;* in consideration for the litigation financing;

(a) the payment of interest, fees, or other consideration *in excess of the amount of attorney fees and litigation expenses incurred in conjunction with or in pursuit of the legal claim;* ~~or~~

(b) ~~except for in-house counsel of the nonprofit, any right to recovery or payment from the amount of any judgment, award, settlement, verdict, or other form of monetary relief obtained in the civil action, administrative proceeding, claim, or cause of action;~~

(2) any litigation financing provided by an entity engaged in commerce or business activity, but only if the entity does not:

(a) charge or collect any interest, fees, or other consideration;

(b) retain or receive any financial interest in the outcome of the *legal claim* ~~civil action, administrative proceeding, claim, or cause of action;~~ or

(c) receive any right to recovery or payment from the amount of any judgment, award, settlement, verdict, or other form of monetary relief obtained *in conjunction with or in pursuit of the legal claim* ~~the civil action, administrative proceeding, claim, or cause of action;~~ or

(3) a regulated lender that does not receive, in consideration for loaning money to any person, a right to receive payment from the value of any proceeds or other consideration realized from any judgment award, settlement, verdict, or other form of monetary relief any person may receive or recover *in conjunction with or in pursuit of the legal claim* ~~relation to any civil action, administrative proceeding, claim, or cause of action."~~

Section 5. Section 31-4-120, MCA, is amended to read:

"31-4-120. Joint and several liability for costs. A litigation financier is jointly and severally liable for any award or order imposing or assessing costs or monetary sanctions against a consumer *or a party's legal representative* arising from or relating to any civil action, administrative proceeding, claim, or cause of action for which the litigation financier is providing litigation financing."

Section 6. Short title. [Sections 6 through 11] may be cited as the "Foreign Investment in Litigation Financing Act".

Section 7. Definitions. The definitions set forth in 31-4-102 apply for purposes of [sections 6 through 11]. In addition, the following definitions apply for purposes of [sections 6 through 11]:

(1) "Foreign adversary" means:

(a) a foreign government of a foreign country identified or designated as a foreign adversary pursuant to 15 CFR 791.4, as in effect on [the effective date of this act];

(b) any political subdivision, agency, department, or political party of a foreign government identified in subsection (1)(a); or

(c) a foreign nongovernment person identified or designated by the United States secretary of commerce as a foreign adversary pursuant to 15 CFR 791.4, as in effect on [the effective date of this act].

(2) "Foreign person" means:

(a) an individual who is not a citizen of the United States or is not an alien lawfully admitted for permanent residence in the United States;

(b) an entity that is not formed, organized, incorporated, or created in the United States;

(c) an entity of which a majority of the persons who own or control the entity are not citizens of the United States or are not aliens lawfully admitted for permanent residence in the United States;

(d) the government, a political subdivision, agency, department, or a political party of a country other than the United States;

(e) an entity that has a place of business in a country other than the United States and that has shares or other ownership interest held by the government or a government official of a country other than the United States; and

(f) an employee, officer, director, official, or member of an entity described in this subsection (2).

(3) "Foreign person of concern" means a person that:

(a) is formed, organized, incorporated, or created in a foreign country identified as a foreign adversary;

(b) is formed, organized, incorporated, owned, controlled, or affiliated, directly or indirectly, with a foreign adversary;

(c) maintains a personal residence or place of business in a foreign country identified as a foreign adversary; or

(d) is formed, organized, incorporated, owned, controlled, or affiliated, directly or indirectly, with a foreign person that has been:

(i) placed on the federal office of foreign assets control's specially designated nationals and blocked persons list, also known as the SDN list, as amended; or

(ii) designated by the United States secretary of state as a foreign terrorist person or organization.

Section 8. Prohibition on litigation funding by foreign adversaries or foreign persons of concern. (1) A foreign adversary or a foreign person of concern may not engage in litigation financing in this state.

(2) A foreign adversary or a foreign person of concern may not, directly or indirectly, invest in, finance, fund, or loan money to a litigation financier engaged in litigation financing in this state.

(3) A litigation financier engaged in litigation financing in this state may not, directly or indirectly:

(a) become affiliated with or maintain an affiliation with a foreign adversary or a foreign person of concern;

(b) receive or accept money or funds from a foreign adversary or a foreign person of concern; or

(c) allow a foreign adversary or a foreign person of concern to invest in, maintain an ownership interest in, or exercise any control over the litigation financier.

Section 9. Restriction on disclosure of proprietary information. A party to a civil action or administrative proceeding in this state may not disclose to or share with a foreign person, a foreign adversary, or a foreign person of concern any proprietary information received in conjunction with or in pursuit of a legal claim in this state.

Section 10. Limitations on foreign litigation funding. (1) A foreign person is prohibited from engaging in the activities set forth in subsection (2) if the foreign person directly or indirectly:

(a) engages in litigation financing;

(b) becomes affiliated with or maintains an affiliation with a litigation financier;

(c) finances, funds, or loans money to a litigation financier; or

(d) invests in, maintains an ownership interest in, or exercises any control over a litigation financier.

(2) A foreign person that engages in the activities set forth in subsection (1) may not:

(a) become affiliated with or maintain an affiliation with a foreign adversary or a foreign person of concern;

(b) receive or accept money or funds from a foreign adversary or a foreign person of concern; or

(c) allow a foreign adversary or a foreign person of concern to invest in, maintain an ownership interest in, or exercise any control over the foreign person.

Section 11. Registration and transparency of foreign persons.

(1) A foreign person who is qualified to engage in litigation financing in this state shall comply with this chapter if the foreign person engages in litigation financing in this state.

(2) A litigation financier shall disclose in writing to the secretary of state the information set forth in subsection (3) if the litigation financier engages in any of the following:

(a) becomes affiliated with or maintains an affiliation with a foreign person;
(b) receives or accepts money or funds from a foreign person for any purpose;

or

(c) allows a foreign person to invest in, maintain an ownership interest in, or exercise any control over the litigation financier.

(3) The following information must be disclosed in writing to the secretary of state:

(a) the name and address of the foreign person and the citizenship of the foreign person or the country of incorporation, formation, or registration of the foreign person; and

(b) a copy of each litigation financing contract in which the foreign person is entitled to receive any payment under the contract.

(4) The litigation financier shall provide the written notice and the information disclosure required by under this section subsection (2) within 30 days after the date on which any a litigation financing agreement is executed by the consumer.

Section 12. Codification instruction. [Sections 6 through 11] are intended to be codified as a new part in Title 31, chapter 4, and the provisions of Title 31, chapter 4, apply to [sections 6 through 11].

Section 13. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 14. Effective date. [This act] is effective on passage and approval.

Section 15. Applicability. [This act] applies to litigation financing contracts entered into on or after [the effective date of this act].

Approved May 5, 2025

CHAPTER NO. 414

[SB 516]

AN ACT GENERALLY REVISING LAWS RELATED TO FACILITIES LICENSED BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; REVISING DEFINITIONS; PROVIDING A DEFINITION FOR SUBSTANCE USE DISORDER TREATMENT FACILITY; UPDATING LICENSURE REQUIREMENTS FOR COMMUNITY HOMES FOR PERSONS WITH SEVERE DISABILITIES AND FOR PERSONS WITH DEVELOPMENTAL DISABILITIES; AND AMENDING SECTIONS 7-34-2201, 33-36-103, 50-5-101, 50-5-201, 50-5-203, 50-5-204, 50-5-207, 50-5-226, 50-6-401, 50-20-901, 52-2-736, 52-2-806, 52-4-203, 53-6-101, 53-20-302, AND 53-20-305, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-34-2201, MCA, is amended to read:

“7-34-2201. Erection and management of county health care facilities – definition – provision of health care services. (1) The board of county commissioners has jurisdiction and power, under the limitations and restrictions prescribed by law, to erect, furnish, equip, expand, improve, and maintain health care facilities and to provide health care services in those facilities as permitted by law.

(2) The board of county commissioners of a county that has or may acquire title to a site and building or buildings suitable for county health care purposes has jurisdiction and power, under the limitations and restrictions prescribed by law, to erect, furnish, equip, expand, improve, maintain, and operate the building or buildings for health care purposes as provided by this section.

(3) As used in parts 21 and 23 through 25 and this part, unless the context clearly requires otherwise, the term “health care facility” means a hospital, ~~a medical assistance facility~~, a critical access hospital, a hospice, an end-stage renal dialysis facility, an outpatient center for surgical services, an outpatient center for primary care, a rehabilitation facility, a long-term care facility, or an adult day-care center, as defined in 50-5-101, a public health center, as defined in 7-34-2102, or any combination and related medical facilities, including offices for physicians or other health care professionals providing outpatient, rehabilitative, emergency, nursing, or preventive care.”

Section 2. Section 33-36-103, MCA, is amended to read:

“33-36-103. Definitions. As used in this chapter, the following definitions apply:

(1) “Closed plan” means a managed care plan that requires covered persons to use only participating providers under the terms of the managed care plan.

(2) “Combination plan” means an open plan with a closed component.

(3) “Covered benefits” means those health care services to which a covered person is entitled under the terms of a health benefit plan.

(4) “Covered person” means a policyholder, subscriber, or enrollee or other individual participating in a health benefit plan.

(5) “Emergency medical condition” means a condition manifesting itself by symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in any of the following:

(a) the covered person’s health would be in serious jeopardy;

(b) the covered person’s bodily functions would be seriously impaired; or

(c) a bodily organ or part would be seriously damaged.

(6) “Emergency services” means health care items and services furnished or required to evaluate and treat an emergency medical condition.

(7) “Facility” means an institution providing health care services or a health care setting, including but not limited to a hospital, ~~medical assistance facility~~, critical access hospital, or rural emergency hospital, as those terms are defined in 50-5-101, or other licensed inpatient center, an outpatient center for surgical services, a treatment center, a skilled nursing center, a residential treatment center, a diagnostic laboratory, a diagnostic imaging center, or a rehabilitation or other therapeutic health setting.

(8) “Health benefit plan” means a policy, contract, certificate, or agreement entered into, offered, or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

(9) “Health care professional” means a physician or other health care practitioner licensed, accredited, or certified pursuant to the laws of this state to perform specified health care services consistent with state law.

(10) “Health care provider” or “provider” means a health care professional or a facility.

(11) “Health care services” means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.

(12) “Health carrier” means an entity subject to the insurance laws and rules of this state that contracts, offers to contract, or enters into an agreement to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including a disability insurer, health maintenance organization, or health service corporation or another entity providing a health benefit plan.

(13) “Intermediary” means a person authorized to negotiate, execute, and be a party to a contract between a health carrier and a provider or between a health carrier and a network.

(14) “Managed care plan” means a health benefit plan that either requires or creates incentives, including financial incentives, for a covered person to use health care providers managed, owned, under contract with, or employed by a health carrier, but not preferred provider organizations or other provider networks operated in a fee-for-service indemnity environment.

(15) “Medically necessary” means services, medicines, or supplies that are necessary and appropriate for the diagnosis or treatment of a covered person’s illness, injury, or medical condition according to accepted standards of medical practice and that are not provided only as a convenience.

(16) “Network” means the group of participating providers that provides health care services to a managed care plan.

(17) “Open plan” means a managed care plan other than a closed plan that provides incentives, including financial incentives, for covered persons to use participating providers under the terms of the managed care plan.

(18) “Participating provider” means a provider who, under a contract with a health carrier or with the health carrier’s contractor, subcontractor, or intermediary, has agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly or indirectly from the health carrier.

(19) “Primary care professional” means a participating health care professional designated by the health carrier to supervise, coordinate, or provide initial care or continuing care to a covered person and who may be required by the health carrier to initiate a referral for specialty care and to maintain supervision of health care services rendered to the covered person.

(20) “Quality assessment” means the measurement and evaluation of the quality and outcomes of medical care provided to individuals, groups, or populations.

(21) “Quality assurance” means quality assessment and quality improvement.

(22) “Quality improvement” means an effort to improve the processes and outcomes related to the provision of health care services within a health plan.”

Section 3. Section 50-5-101, MCA, is amended to read:

“50-5-101. Definitions. As used in parts 1 through 3 of this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) “Accreditation” means a designation of approval.

(2) “Activities of daily living” means tasks usually performed in the course of a normal day in a resident’s life that include eating, walking, mobility, dressing, grooming, bathing, toileting, and transferring.

(3) “Adult day-care center” means a facility, freestanding or connected to another health care facility, that provides adults, on a regularly scheduled basis, with the care necessary to meet the needs of daily living but that does not provide overnight care.

(4) (a) "Adult foster care home" means a private home or other facility that offers, except as provided in 50-5-216, only light personal care or custodial care to four or fewer disabled adults or aged persons who are not related to the owner or manager of the home by blood, marriage, or adoption or who are not under the full guardianship of the owner or manager.

(b) As used in this subsection (4), the following definitions apply:

(i) "Aged person" means a person as defined by department rule as aged.

(ii) "Custodial care" means providing a sheltered, family-type setting for an aged person or disabled adult so as to provide for the person's basic needs of food and shelter and to ensure that a specific person is available to meet those basic needs.

(iii) "Disabled adult" means a person who is 18 years of age or older and who is defined by department rule as disabled.

(iv) (A) "Light personal care" means assisting the aged person or disabled adult in accomplishing such personal hygiene tasks as bathing, dressing, and hair grooming and supervision of ~~prescriptive~~ *prescription* medicine administration.

(B) The term does not include the administration of ~~prescriptive~~ *prescription* medications.

(5) "Affected person" means an applicant for a certificate of need, a long-term care facility located in the geographic area affected by the application, an agency that establishes rates for long-term care facilities, or a third-party payer who reimburses long-term care facilities in the area affected by the proposal.

(6) "Assisted living facility" means a congregate residential setting that provides or coordinates personal care, 24-hour supervision and assistance, both scheduled and unscheduled, and activities and health-related services.

(7) "Capital expenditure" means:

(a) an expenditure made by or on behalf of a long-term care facility that, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance; or

(b) a lease, donation, or comparable arrangement that would be a capital expenditure if money or any other property of value had changed hands.

(8) "Certificate of need" means a written authorization by the department for a person to proceed with a proposal subject to 50-5-301.

~~(9) "Chemical dependency facility" means a facility whose function is the treatment, rehabilitation, and prevention of the use of any chemical substance, including alcohol, that creates behavioral or health problems and endangers the health, interpersonal relationships, or economic function of an individual or the public health, welfare, or safety.~~

~~(10)~~(9) "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological, radiobioassay, cytological, immunohematological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of a disease or assessment of a medical condition.

~~(11)~~(10) "Comparative review" means a joint review of two or more certificate of need applications that are determined by the department to be competitive in that the granting of a certificate of need to one of the applicants would substantially prejudice the department's review of the other applications.

~~(12)~~(11) "Congregate" means the provision of group services designed especially for elderly or disabled persons who require supportive services and housing.

~~(13)~~(12) "Construction" means the physical erection of a new health care facility and any stage of the physical erection, including groundbreaking, or remodeling, replacement, or renovation of:

(a) an existing health care facility; or

(b) a long-term care facility as defined in 50-5-301.

~~(14)~~(13) “Critical access hospital” means a facility that is located in a rural area, as defined in ~~42 U.S.C. 1395ww(d)(2)(D)~~ *federal regulations adopted by the U.S. centers for medicare and medicaid services*, and that has been designated by the department as a critical access hospital pursuant to 50-5-233.

~~(15)~~(14) “Department” means the department of public health and human services provided for in 2-15-2201.

~~(16)~~(15) “Eating disorder center” means a facility that specializes in the treatment of eating disorders.

~~(17)~~(16) “End-stage renal dialysis facility” means a facility that specializes in the treatment of kidney diseases and includes freestanding hemodialysis units.

~~(18)~~(17) “Federal acts” means federal statutes for the construction of health care facilities.

~~(19)~~(18) “Governmental unit” means the state, a state agency, a county, municipality, or political subdivision of the state, or an agency of a political subdivision.

~~(20)~~(19) (a) “Health care facility” or “facility” means all or a portion of an institution, building, or agency, private or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual. The term includes abortion clinics as defined in 50-20-901, ~~chemical dependency facilities~~, critical access hospitals, eating disorder centers, end-stage renal dialysis facilities, home health agencies, home infusion therapy agencies, hospices, hospitals, infirmaries, long-term care facilities, intermediate care facilities for the developmentally disabled, ~~medical assistance facilities~~, mental health centers, outpatient centers for primary care, outpatient centers for surgical services, rehabilitation facilities, residential care facilities, residential treatment facilities, ~~and~~ rural emergency hospitals, *and substance use disorder facilities*.

(b) The term does not include offices of private physicians, dentists, or other physical or mental health care workers regulated under Title 37, including licensed addiction counselors.

~~(21)~~(20) “Home health agency” means a public agency or private organization or subdivision of the agency or organization that is engaged in providing home health services to individuals in the places where they live. Home health services must include the services of a licensed registered nurse and at least one other therapeutic service and may include additional support services.

~~(22)~~(21) “Home infusion therapy agency” means a health care facility that provides home infusion therapy services.

~~(23)~~(22) “Home infusion therapy services” means the preparation, administration, or furnishing of parenteral medications or parenteral or enteral nutritional services to an individual in that individual’s residence. The services include an educational component for the patient, the patient’s caregiver, or the patient’s family member.

~~(24)~~(23) “Hospice” means a coordinated program of home and inpatient health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient’s family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component. The term includes:

(a) an inpatient hospice facility, which is a facility managed directly by a medicare-certified hospice that meets all medicare certification regulations for freestanding inpatient hospice facilities; and

(b) a residential hospice facility, which is a facility managed directly by a licensed hospice program that can house three or more hospice patients.

(25)(24) (a) "Hospital" means a facility providing, by or under the supervision of licensed physicians, services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals. Except as otherwise provided by law, services provided must include medical personnel available to provide emergency care onsite 24 hours a day and may include any other service allowed by state licensing authority. A hospital has an organized medical staff that is on call and available within 20 minutes, 24 hours a day, 7 days a week, and provides 24-hour nursing care by licensed registered nurses. The term includes:

(i) hospitals specializing in providing health services for psychiatric, developmentally disabled, and tubercular patients; and

(ii) specialty hospitals.

(b) The term does not include critical access hospitals or rural emergency hospitals.

(c) The emergency care requirement for a hospital that specializes in providing health services for psychiatric, developmentally disabled, or tubercular patients is satisfied if the emergency care is provided within the scope of the specialized services provided by the hospital and by providing 24-hour nursing care by licensed registered nurses.

(26)(25) "Infirmiry" means a facility located in a university, college, government institution, or industry for the treatment of the sick or injured, with the following subdefinitions:

(a) an "infirmiry--A" provides outpatient and inpatient care;

(b) an "infirmiry--B" provides outpatient care only.

(27)(26) (a) "Intermediate care facility for the developmentally disabled" means a facility or part of a facility that provides intermediate developmental disability care for two or more persons.

(b) The term does not include community homes for persons with developmental disabilities that are licensed under 53-20-305 or community homes for persons with severe disabilities that are licensed under 52-4-203.

(28)(27) "Intermediate developmental disability care" means the provision of intermediate nursing care services, health-related services, and social services for persons with a developmental disability, as defined in 53-20-102, or for persons with related problems.

(29)(28) "Intermediate nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.

(30)(29) "Licensed health care professional" means a licensed physician, physician assistant, advanced practice registered nurse, or registered nurse who is practicing within the scope of the license issued by the department of labor and industry.

(31)(30) (a) "Long-term care facility" means a facility or part of a facility that provides skilled nursing care, residential care, intermediate nursing care, or intermediate developmental disability care to a total of two or more individuals or that provides personal care.

(b) The term does not include community homes for persons with developmental disabilities licensed under 53-20-305; community homes for persons with severe disabilities, licensed under 52-4-203; youth care facilities, licensed under 52-2-622; hotels, motels, boardinghouses, roominghouses, or

similar accommodations providing for transients, students, or individuals who do not require institutional health care; or correctional facilities operating under the authority of the department of corrections.

(32) “Medical assistance facility” means a facility that meets both of the following:

(a) ~~provides inpatient care to ill or injured individuals before their transportation to a hospital or that provides inpatient medical care to individuals needing that care for a period of no longer than 96 hours unless a longer period is required because transfer to a hospital is precluded because of inclement weather or emergency conditions. The department or its designee may, upon request, waive the 96-hour restriction retroactively and on a case-by-case basis if the individual’s attending physician, physician assistant, or nurse practitioner determines that the transfer is medically inappropriate and would jeopardize the health and safety of the individual.~~

(b) ~~either is located in a county with fewer than six residents a square mile or is located more than 35 road miles from the nearest hospital.~~

(33)(31) “Mental health center” means a facility providing services for the prevention or diagnosis of mental illness, the care and treatment of mentally ill patients, the rehabilitation of mentally ill individuals, or any combination of these services.

(34)(32) “Nonprofit health care facility” means a health care facility owned or operated by one or more nonprofit corporations or associations.

(35)(33) “Offer” means the representation by a health care facility that it can provide specific health services.

(36)(34) (a) “Outdoor behavioral program” means a program that provides treatment, rehabilitation, and prevention for behavioral problems that endanger the health, interpersonal relationships, or educational functions of a youth and that:

(i) serves either adjudicated or nonadjudicated youth;

(ii) charges a fee for its services; and

(iii) provides all or part of its services in the outdoors.

(b) “Outdoor behavioral program” does not include recreational programs such as boy scouts, girl scouts, 4-H clubs, or other similar organizations.

(37)(35) “Outpatient center for primary care” means a facility that provides, under the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients and that is not an outpatient center for surgical services.

(38)(36) “Outpatient center for surgical services” means a clinic, infirmary, or other institution or organization that is specifically designed and operated to provide surgical services to patients not requiring hospitalization and that may include recovery care beds.

(39)(37) “Patient” means an individual obtaining services, including skilled nursing care, from a health care facility.

(40)(38) “Person” means an individual, firm, partnership, association, organization, agency, institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.

(41)(39) “Personal care” means the provision of services and care for residents who need some assistance in performing the activities of daily living.

(42)(40) “Practitioner” means an individual licensed by the department of labor and industry who has assessment, admission, and prescription authority.

(43)(41) “Recovery care bed” means, except as provided in 50-5-235, a bed occupied for less than 24 hours by a patient recovering from surgery or other treatment.

~~(44)~~(42) “Rehabilitation facility” means a facility that is operated for the primary purpose of assisting in the rehabilitation of disabled individuals by providing comprehensive medical evaluations and services, psychological and social services, or vocational evaluation and training or any combination of these services and in which the major portion of the services is furnished within the facility.

~~(45)~~(43) “Resident” means an individual who is in a long-term care facility or in a residential care facility.

~~(46)~~(44) “Residential care facility” means an adult day-care center, an adult foster care home, an assisted living facility, or a retirement home.

~~(47)~~(45) “Residential psychiatric care” means active psychiatric treatment provided in a residential treatment facility to psychiatrically impaired individuals with persistent patterns of emotional, psychological, or behavioral dysfunction of such severity as to require 24-hour supervised care to adequately treat or remedy the individual’s condition. Residential psychiatric care must be individualized and designed to achieve the patient’s discharge to less restrictive levels of care at the earliest possible time.

~~(48)~~(46) “Residential treatment facility” means a facility operated for the primary purpose of providing residential psychiatric care to individuals under 21 years of age.

~~(49)~~(47) “Retirement home” means a building or buildings in which separate living accommodations are rented or leased to individuals who use those accommodations as their primary residence.

~~(50)~~(48) “Rural emergency hospital” means a facility defined in 42 U.S.C. 1395x(kkk)(2) that is designated by the department as a rural emergency hospital in accordance with 50-5-234.

~~(51)~~(49) “Skilled nursing care” means the provision of nursing care services, health-related services, and social services under the supervision of a licensed registered nurse on a 24-hour basis.

~~(52)~~(50) (a) “Specialty hospital” means a subclass of hospital that is exclusively engaged in the diagnosis, care, or treatment of one or more of the following categories:

- (i) patients with a cardiac condition;
- (ii) patients with an orthopedic condition;
- (iii) patients undergoing a surgical procedure; or
- (iv) patients treated for cancer-related diseases and receiving oncology services.

(b) For purposes of this subsection (52), a specialty hospital may provide other services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals as otherwise provided by law if the care encompasses 35% or less of the hospital services.

(c) The term “specialty hospital” does not include:

- (i) psychiatric hospitals;
- (ii) rehabilitation hospitals;
- (iii) children’s hospitals;
- (iv) long-term care hospitals; or
- (v) critical access hospitals; or
- (vi) rural emergency hospitals.

~~(53)~~(51) “State long-term care facilities plan” means the plan prepared by the department to project the need for long-term care facilities within Montana and approved by the governor and a statewide health coordinating council appointed by the director of the department.

~~(52)~~ “Substance use disorder facility” means a facility whose function is the treatment, rehabilitation and prevention of the use of any chemical substance,

including alcohol, that creates behavioral or health problems and endangers the physical or mental health, interpersonal relationships, or economic function of an individual or the public health, welfare, or safety.

(54)(53) “Swing bed” means a bed approved pursuant to 42 U.S.C. 1395tt to be used to provide either acute care or extended skilled nursing care to a patient.”

Section 4. Section 50-5-201, MCA, is amended to read:

“50-5-201. License requirements. (1) A facility or licensee considering construction of or alteration or addition to a health care facility shall submit plans and specifications to the department for preliminary inspection and approval prior to commencing construction.

(2) A person may not operate a health care facility unless the facility is licensed by the department. Licenses may be issued for a period of 1 to 3 years in duration. A license is valid only for the person and premises for which it was issued. A license may not be sold, assigned, or transferred.

(3) Upon discontinuance of the operation or upon transfer of ownership of a facility, the license must be returned to the department *or destroyed by the owners.*

(4) Licenses must be displayed in a conspicuous place near the admitting office of the facility.”

Section 5. Section 50-5-203, MCA, is amended to read:

“50-5-203. Application for license. The procedure to apply for a license is as follows:

(1) At least ~~30~~ 45 days prior to the opening of a facility and after that no later than the expiration date of the license, application is ~~made~~ *submitted* to the department accompanied by the license fee.

(2) The application shall contain:

(a) the name and address of the applicant if an individual, the name and address of each member if a firm, partnership, or association, or the name and address of each officer if a corporation;

(b) the location of the facility;

(c) the name of the person ~~or persons who will manage or supervise who will act as administrator~~ of the facility;

(d) the number and type of patients or residents for which care is provided;

(e) any information which the department may require pertaining to the number, experience, and training of employees;

(f) information on ownership, contract, or lease agreement if operated by a person other than the owner.

(3) Applications must include attestation or supporting documentation required by the department ~~pertaining to indicating the applicant has read and understands the licensure requirements of specialty hospitals using the procedures provided in parts 1 and 2 of this chapter. The attestation may be used as the basis for the issuance of a provisional or temporary license the facility type that is the subject of the application.~~

Section 6. Section 50-5-204, MCA, is amended to read:

“50-5-204. Issuance and renewal of licenses – inspections. (1) After receipt of a new application and notice that the facility is ready to be inspected, the department or its authorized agent shall conduct an initial inspection of the facility within 45 days.

(2) After receipt of an application for renewal of a license, the department or its authorized agent shall inspect the facility without prior notice to the operator or staff *prior to the expiration of the current license.*

(3) If the department determines that the facility meets minimum standards and the proposed or existing staff is qualified, the department shall issue a license for a period of 1 to 3 years in duration.

(4) If minimum standards are not met, the department may *reduce a license to, or issue, a provisional license for less than 1 year if operation will not result in undue hazard to patients or residents or if the demand for accommodations offered is not met in the community.*

~~(5) The minimum standards that home health agencies must meet in order to be licensed must be as outlined in 42 U.S.C. 1395x(o), as amended, and in rules implementing it that add minimum standards.~~

(6)(5) The department may inspect a licensed health care facility whenever it considers it necessary. The entire premises of a licensed facility must be open to inspection, and access to all records must be granted at all reasonable times.”

Section 7. Section 50-5-207, MCA, is amended to read:

“50-5-207. Denial, suspension, or revocation of health care facility license – provisional license. (1) The department may deny, suspend, or revoke a health care facility license if any of the following circumstances exist:

(a) The facility fails to meet the minimum standards pertaining to it prescribed under 50-5-103.

(b) The staff is insufficient in number or unqualified by lack of training or experience.

(c) The applicant or any person managing it has been convicted of a felony and denial of a license on that basis is consistent with 37-1-203 or the applicant otherwise shows evidence of character traits inimical to the health and safety of patients or residents.

(d) The applicant does not have the financial ability to operate the facility in accordance with law or rules or standards adopted by the department.

(e) There is cruelty or indifference affecting the welfare of the patients or residents.

(f) There is misappropriation of the property or funds of a patient or resident.

(g) There is conversion of the property of a patient or resident without the patient’s or resident’s consent.

(h) Any provision of parts 1 through 3 is violated.

(2) The department may reduce a license to provisional status if:

(a) as a result of an inspection, it is determined that the facility has failed to comply with a provision of part 1 or 2 of this chapter or has failed to comply with a rule, license provision, or order adopted or issued pursuant to part 1 or 2;

(b) *a facility is unable to be surveyed due to lack of patients or residents;*

(c) *the facility is currently under review for accreditation and the review will not be complete prior to the expiration date of its current license; or*

(d) *the department requires additional time to complete the inspection review.*

(3) *A provisional license may be issued for a period of up to 1 year.*

(3)(4) The denial, suspension, or revocation of a health care facility license is not subject to the certificate of need requirements of part 3.

(4)(5) The department may provide in its revocation order that the revocation is in effect for up to 2 years. If this provision is appealed, it must be affirmed or reversed by the court.”

Section 8. Section 50-5-226, MCA, is amended to read:

“50-5-226. Placement in assisted living facilities. (1) An assisted living facility may provide personal-care services to a resident who is 18 years

of age or older and in need of the personal care for which the facility is licensed under 50-5-227.

(2) An assisted living facility licensed as a category A facility under 50-5-227 may not admit or retain a category A resident unless each of the following conditions is met:

(a) The resident may not require physical or chemical restraint or confinement in locked quarters, but may consent to the use of safety devices pursuant to Title 50, chapter 5, part 12.

(b) The resident may not have a stage 3 or stage 4 pressure ulcer.

(c) The resident may not have a gastrostomy or jejunostomy tube.

(d) The resident may not require skilled nursing care or other skilled services on a continued basis except for the administration of medications consistent with applicable laws and regulations.

(e) The resident may not be a danger to self or others.

(f) The resident must be able to accomplish activities of daily living with supervision and assistance based on the following:

(i) the resident may not be consistently and totally dependent in four or more activities of daily living as a result of a cognitive or physical impairment; **and**

(ii) the resident may not have a severe cognitive impairment that renders the resident incapable of expressing needs or making basic care decisions; *and*

(iii) *the resident requires physical assistance with at least one activity of daily living.*

(3) An assisted living facility licensed as a category B facility under 50-5-227 may not admit or retain a category B resident unless each of the following conditions is met:

(a) The resident may require skilled nursing care or other services for more than 30 days for an incident, for more than 120 days a year that may be provided or arranged for by either the facility or the resident, and as provided for in the facility agreement.

(b) The resident may be consistently and totally dependent in more than four activities of daily living.

(c) The resident may not require physical or chemical restraint or confinement in locked quarters, but may consent to the use of safety devices pursuant to Title 50, chapter 5, part 12.

(d) The resident may not be a danger to self or others.

(e) The resident must have a practitioner's written order for admission as a category B resident and written orders for care.

(f) The resident must have a signed health care assessment, renewed on a quarterly basis by a licensed health care professional who:

(i) actually visited the facility within the calendar quarter covered by the assessment;

(ii) has certified that the particular needs of the resident can be adequately met in the facility; **and**

(iii) has certified that there has been no significant change in health care status that would require another level of care.

(4) An assisted living facility licensed as a category C facility under 50-5-227 may not admit or retain a category C resident unless each of the following conditions is met:

(a) The resident has a severe cognitive impairment that renders the resident incapable of expressing needs or of making basic care decisions.

(b) The resident may be at risk for leaving the facility without regard for personal safety.

(c) Except as provided in subsection (4)(b), the resident may not be a danger to self or others.

(d) The resident may not require physical or chemical restraint or confinement in locked quarters, but may consent to the use of safety devices pursuant to Title 50, chapter 5, part 12.

(5) (a) An assisted living facility licensed as a category D facility under 50-5-227 may not admit or retain a category D resident unless each of the conditions in subsections (5)(b) and (5)(c) is met or a court has ordered diversion as provided in subsection (5)(d).

(b) The resident must be dependent on assistance for two or more activities of daily living and may require skilled nursing care or other services that may be provided or arranged for by either the facility or the resident or provided for in the facility agreement.

(c) The resident must be assessed by a practitioner or adjudged by a court as having been or potentially being a danger to self or others. The practitioner shall submit both a health care assessment, renewed on a monthly basis, and a written order for care that:

(i) provides information on behavioral patterns under which the category D resident may pose a threat to others and may need to be kept separate from other category D residents or residents in other categories of assisted care;

(ii) lists the conditions under which the category D resident can be reasonably, temporarily restrained, using protective restraints, medications, or confinement to avoid harm to the resident or others;

(iii) includes a reason why a category D assisted living facility is more appropriate than other options for care and provides an assessment of the resident's needs and plan for care; and

(iv) indicates the timeframe over which the resident's health care status has remained the same or changed.

(d) A court may order a diversion from an involuntary commitment to Montana state hospital or from the Montana mental health nursing care center as provided in 53-21-127 or 53-21-199. A diversion ordered pursuant to 53-21-199 may be an involuntary commitment but must be treated as provided in 53-21-181.

(6) For category B, C, and D residents, the assisted living facility shall specify services that it will provide in the facility admission criteria.

(7) The department shall develop standardized forms and education and training materials to provide to the assisted living facilities and to the licensed health care professionals who are responsible for the signed ~~statements~~ *health care assessments* provided for in subsection (3)(f). The use of the standardized forms is voluntary.

(8) The department shall provide by rule:

(a) an application or placement procedure informing a prospective resident and, if applicable, the resident's practitioner of:

(i) physical and mental standards for residents of assisted living facilities;

(ii) requirements for placement in a facility with a higher standard of care if a resident's condition deteriorates; and

(iii) the services offered by the facility and services that a resident may receive from third-party providers while the resident lives at the facility;

(b) standards to be used by a facility and, if appropriate, by a screening agency to screen residents and prospective residents to ~~prevent residence by individuals referred to in subsections (3) through (5) determine needed level of care and appropriateness of placement.~~ An individual subject to 46-14-301 is not eligible to be placed in a category D assisted living facility.

(c) a method by which the results of any screening decision made pursuant to rules established under subsection (8)(b) may be appealed by the facility operator or by or on behalf of a resident or prospective resident;

(d) standards for operating a category A assisted living facility, including standards for the physical, structural, environmental, sanitary, infection control, dietary, social, staffing, and recordkeeping components of a facility and the storage and administration of over-the-counter and prescription medications;

(e) standards for operating a category B assisted living facility, which must include the standards for a category A assisted living facility and additional standards for assessment of residents, care planning, qualifications and training of staff, prevention and care of pressure sores, and incontinence care; and

(f) standards for operating a category C and a category D assisted living facility, which must include the standards for a category B assisted living facility and additional standards for resident assessment, the provision of specialty care to residents with cognitive impairments, and additional qualifications of and training for the administrator and direct-care staff. The standards for a category D assisted living facility must also include specific safety and restraint training.”

Section 9. Section 50-6-401, MCA, is amended to read:

“50-6-401. Definitions. As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) “Department” means the department of public health and human services provided for in Title 2, chapter 15, part 22.

(2) “Emergency medical service” means an emergency medical service as defined by 50-6-302.

(3) “Health care facility” or “facility” means a hospital; ~~or critical access hospital; or medical assistance facility~~ as defined in 50-5-101.

(4) “Hospital trauma register” means patient-specific trauma data that is maintained by a health care facility, in a format prescribed by department rule, and that has the primary purpose of facilitating peer review and quality improvement at the health care facility.

(5) “Quality improvement” means the process of defining trauma care system performance standards, collecting data against which the standards may be applied, using the data to determine compliance with the standards, and using the data and compliance information in a nonpunitive manner, including peer review, that will continuously improve performance and facilitate compliance with the standards.

(6) “State trauma register” means trauma data relating to a specific patient or health care facility that is maintained by the department in an electronic format and that has the primary purpose of facilitating peer review and quality improvement for a health care facility or a trauma care system.

(7) “Trauma” means a severe, abrupt injury to the human body that is caused by mechanical, environmental, thermal, or other physical force.

(8) “Trauma care committee” means the trauma care committee created in 2-15-2216.

(9) “Trauma care system” means a state or regional system for the prevention of trauma and the provision of optimal medical care to trauma victims that includes both provision of appropriate health care services and provision of emergency medical care, equipment, and personnel for effective and coordinated prehospital, hospital, interhospital, and rehabilitative care for trauma patients.

(10) "Trauma facility" means a health care facility designated by the department pursuant to 50-6-410 as providing a specialized program in trauma care with appropriately trained personnel, equipment, and other facility resources that are specifically organized to provide optimal care to a trauma patient at the facility.

(11) "Trauma region" means a geographic area, designated by department rule pursuant to 50-6-402, within which trauma services are coordinated and evaluated through a regional trauma care system."

Section 10. Section 50-20-901, MCA, is amended to read:

"50-20-901. Definitions. As used in this part, the following definitions apply:

(1) (a) "Abortion clinic" means a facility that:
(i) performs surgical abortion procedures; or
(ii) provides an abortion-inducing drug.
(b) The term does not include:
(i) a hospital as defined in 50-5-101;
(ii) a critical access hospital as defined in 50-5-101;
(iii) *a rural emergency hospital as defined in 50-5-101;*
~~(iii)~~(iv) an outpatient center for surgical services as defined in 50-5-101; or
~~(iv)~~(v) a facility that provides, prescribes, administers, or dispenses an abortion-inducing drug to fewer than five patients each year.

(2) (a) "Abortion-inducing drug" means a medicine, drug, or other substance provided with the intent of terminating the clinically diagnosable pregnancy of a woman.

(b) The term includes the off-label use of drugs known to have abortion-inducing properties that are prescribed specifically with the intent of causing an abortion.

(c) The term does not include the use of drugs that may be known to cause an abortion if the drugs are prescribed for a medical indication other than abortion.

(3) "Affiliate" means an organization that directly or indirectly:
(a) owns or controls another organization;
(b) is owned or controlled, in whole or in part, by another organization;
(c) is related by shareholdings or other means of control to another organization;
(d) is a parent or subsidiary of another organization; or
(e) is under common control with another organization.

(4) "Medical practitioner" means a person authorized under 50-20-109 to perform an abortion in this state."

Section 11. Section 52-2-736, MCA, is amended to read:

"52-2-736. Prohibition against administering medicine without authorization -- provision for emergency -- definitions -- penalty.

(1) An employee, owner, household member, volunteer, or operator of a day-care facility, as defined in 52-2-703, regardless of whether the facility is licensed or registered, may not purposely or knowingly administer any medicine, as defined in 37-7-101, to a child attending the day-care facility without written authorization. Written authorization must include the child's name, date or dates for which the authorization is applicable, dosage instructions, and signature of the child's parent or guardian.

(2) If an emergency medical condition arises and the parent or guardian of the child is unavailable, an employee, owner, or operator of a day-care facility may administer medicine to a child attending the day-care facility without the written authorization of a parent or guardian as provided in subsection (1) if:

(a) a medical practitioner provides a written authorization containing the child's name, date or dates for which the authorization is applicable, dosage instructions, and the medical practitioner's signature; or

(b) a medical practitioner, emergency services provider, or 9-1-1 responder verbally directs the employee, owner, or operator of the day-care facility attending the child to immediately administer a medicine to the child and the child is subsequently transported within a reasonable time by the child's parents, an owner, operator, or employee of the child-care facility, a health care provider, or an emergency services provider to a health care facility or a medical practitioner for followup care.

(3) A medicine administered to a child pursuant to subsection (1) or (2) may not be inappropriately administered.

(4) An employee, owner, or operator of a day-care facility who has administered medicine to a child in accordance with this section may not be prosecuted for causing bodily injury or severe bodily injury to a child.

(5) For the purposes of this section:

(a) "bodily injury" has the meaning provided in 45-2-101;

(b) "emergency medical condition" means circumstances in which a prudent lay person acting reasonably would believe that an emergency medical condition exists;

(c) "emergency services provider" has the meaning provided in 50-16-701;

(d) "health care facility" means a profit or nonprofit, public or private physician's office, hospital, critical access hospital, infirmary, clinic, outpatient center for primary care, *or* outpatient center for surgical services, ~~or medical assistance facility~~, as any of those terms are defined in 50-5-101;

(e) "inappropriately administered" means to give medicine to a child that is not indicated, as to the medicine's type, dosage, or frequency of use or the container instructions, if any, by the medical symptoms exhibited by the child;

(f) "knowingly" has the meaning provided in 45-2-101;

(g) "medical practitioner" has the meaning provided in 37-2-101;

(h) "9-1-1 responder" means a law enforcement dispatcher or other person answering a 9-1-1 telephone call, a person answering a telephone call made to a poison control center, or an emergency services provider;

(i) "purposely" has the meaning provided in 45-2-101; and

(j) "serious bodily injury" has the meaning provided in 45-2-101.

(4) (a) A person convicted of purposely or knowingly administering medicine without authorization resulting in bodily injury to a child shall be imprisoned in the county jail for a term not to exceed 6 months or be fined an amount not to exceed \$500, or both.

(b) A person convicted of purposely or knowingly administering medicine without authorization resulting in serious bodily injury to a child or in the death of a child shall be imprisoned for a term not to exceed 20 years or be fined an amount not to exceed \$50,000, or both."

Section 12. Section 52-2-806, MCA, is amended to read:

"52-2-806. Provisional license. The department may issue a provisional license for a period not to exceed ~~6 months~~ *1 year* if it finds that a licensee or applicant does not meet all standards established by the department as long as the licensee or applicant is attempting to meet the minimum standards."

Section 13. Section 52-4-203, MCA, is amended to read:

"52-4-203. Licensing. (1) *A person may not operate a community home for persons with severe disabilities, also called a facility, must be unless the facility is licensed annually* by the department.

(2) ~~The department may also issue temporary and provisional licenses.~~

(2) A community home for persons with severe disabilities must be inspected and licensed annually by the department of public health and human services.

(3) A license may not be sold, assigned, or transferred. Upon discontinuance of the operation or upon transfer of ownership of a facility, the license must be returned to the department or destroyed by the owners.

(4) A facility shall display its license in a conspicuous place near its admitting office.

(5) If a facility is the subject of substantiated claims of abuse, neglect, or exploitation, or if a facility does not meet the minimum standards for operating a community home for people with severe disabilities, the department may reduce the facility's license to, or issue the facility, a provisional license for less than 1 year if operation or continued operation of the facility will not result in undue hazards to its residents.

(6) The department may inspect a licensed community home for people with severe disabilities whenever it considers necessary. The entire premises of a licensed facility must be open to inspection, and access to all records must be granted at all reasonable times."

Section 14. Section 53-6-101, MCA, is amended to read:

"53-6-101. Montana medicaid program – authorization of services.

(1) There is a Montana medicaid program established for the purpose of providing necessary medical services to eligible persons who have need for medical assistance. The Montana medicaid program is a joint federal-state program administered under this chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. The department shall administer the Montana medicaid program.

(2) The department and the legislature shall consider the following funding principles when considering changes in medicaid policy that either increase or reduce services:

(a) protecting those persons who are most vulnerable and most in need, as defined by a combination of economic, social, and medical circumstances;

(b) giving preference to the elimination or restoration of an entire medicaid program or service, rather than sacrifice or augment the quality of care for several programs or services through dilution of funding; and

(c) giving priority to services that employ the science of prevention to reduce disability and illness, services that treat life-threatening conditions, and services that support independent or assisted living, including pain management, to reduce the need for acute inpatient or residential care.

(3) Medical assistance provided by the Montana medicaid program includes the following services:

(a) inpatient hospital services;

(b) outpatient hospital services;

(c) other laboratory and x-ray services, including minimum mammography examination as defined in 33-22-132;

(d) skilled nursing services in long-term care facilities;

(e) physicians' services;

(f) nurse specialist services;

(g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of age, in accordance with federal regulations and subsection (10)(b);

(h) ambulatory prenatal care for pregnant women during a presumptive eligibility period, as provided in 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;

(i) targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk pregnant women;

(j) services that are provided by physician assistants within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider;

(k) health services provided under a physician's orders by a public health department;

(l) federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2);

(m) routine patient costs for qualified individuals enrolled in an approved clinical trial for cancer as provided in 33-22-153;

(n) for children 18 years of age and younger, habilitative services as defined in 53-4-1103;

(o) services provided by a person certified in accordance with 37-2-318 to provide services in accordance with the Indian Health Care Improvement Act, 25 U.S.C. 1601, et seq.;

(p) fertility preservation services in accordance with 33-22-2103; and

(q) planned home births for women with a low risk of adverse birth outcomes, as established by the appropriate licensing board, that are attended by certified nurse-midwives licensed under Title 37, chapter 8, or direct-entry midwives licensed under Title 37, chapter 27. Coverage under this section includes prenatal care and postpartum care.

(4) Medical assistance provided by the Montana medicaid program may, as provided by department rule, also include the following services:

(a) medical care or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;

(b) home health care services[, including services provided by pediatric complex care assistants licensed pursuant to 37-2-603];

(c) private-duty nursing services;

(d) dental services;

(e) physical therapy services;

(f) mental health center services administered and funded under a state mental health program authorized under Title 53, chapter 21, part 10;

(g) clinical social worker services;

(h) prescribed drugs, dentures, and prosthetic devices;

(i) prescribed eyeglasses;

(j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;

(k) inpatient psychiatric hospital services for persons under 21 years of age;

(l) services of clinical professional counselors licensed under Title 37, chapter 39;

(m) services of a marriage and family therapist licensed under Title 37, chapter 39;

(n) hospice care, as defined in 42 U.S.C. 1396d(o);

(o) case management services, as provided in 42 U.S.C. 1396d(a) and 1396n(g), including targeted case management services for the mentally ill;

(p) services of psychologists licensed under Title 37, chapter 17;

(q) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C. 1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201;

(r) services of behavioral health peer support specialists certified under Title 37, chapter 39, provided to adults 18 years of age and older with a diagnosis of a mental disorder, as defined in 53-21-102; and

(s) any additional medical service or aid allowable under or provided by the federal Social Security Act.

(5) Services for persons qualifying for medicaid under the medically needy category of assistance, as described in 53-6-131, may be more limited in amount, scope, and duration than services provided to others qualifying for assistance under the Montana medicaid program. The department is not required to provide all of the services listed in subsections (3) and (4) to persons qualifying for medicaid under the medically needy category of assistance.

(6) In accordance with federal law or waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department may implement limited medicaid benefits, to be known as basic medicaid, for adult recipients who are eligible because they are receiving cash assistance, as defined in 53-4-201, as the specified caretaker relative of a dependent child and for all adult recipients of medical assistance only who are covered under a group related to a program providing cash assistance, as defined in 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsection (3) but may include those optional services listed in subsections (4)(a) through (4)(s) that the department in its discretion specifies by rule. The department, in exercising its discretion, may consider the amount of funds appropriated by the legislature, whether approval has been received, as provided in 53-1-612, and whether the provision of a particular service is commonly covered by private health insurance plans. However, a recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage.

(7) The department may implement, as provided for in Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums, deductibles, and coinsurance for persons not otherwise eligible for medicaid.

(8) (a) The department may set rates for medical and other services provided to recipients of medicaid and may enter into contracts for delivery of services to individual recipients or groups of recipients.

(b) The department shall strive to close gaps in services provided to individuals suffering from mental illness and co-occurring disorders by doing the following:

(i) simplifying administrative rules, payment methods, and contracting processes for providing services to individuals of different ages, diagnoses, and treatments. Any adjustments to payments must be cost-neutral for the biennium beginning July 1, 2017.

(ii) publishing a report on an annual basis that describes the process that a mental health center or ~~chemical dependency~~ *substance use disorder* facility, as those terms are defined in 50-5-101, must utilize in order to receive payment from Montana medicaid for services provided to individuals of different ages, diagnoses, and treatments.

(9) The services provided under this part may be only those that are medically necessary and that are the most efficient and cost-effective.

(10) (a) The amount, scope, and duration of services provided under this part must be determined by the department in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended.

(b) The department shall, with reasonable promptness, provide access to all medically necessary services prescribed under the early and periodic screening, diagnosis, and treatment benefit, including access to prescription drugs and durable medical equipment for which the department has not negotiated a rebate.

(11) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

(12) (a) Prior to enacting changes to provider rates, medicaid waivers, or the medicaid state plan, the department shall report this information to the following committees:

- (i) the children, families, health, and human services interim committee;
- (ii) the legislative finance committee; and
- (iii) the health and human services budget committee.

(b) In its report to the committees, the department shall provide an explanation for the proposed changes and an estimated budget impact to the department over the next 4 fiscal years.

(13) If available funds are not sufficient to provide medical assistance for all eligible persons, the department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical services made available under the Montana medicaid program after taking into consideration the funding principles set forth in subsection (2). (Subsection (3)(o) terminates September 30, 2025--sec. 1, Ch. 298, L. 2023; bracketed language in subsection (4)(b) terminates June 30, 2031--sec. 10, Ch. 628, L. 2023.)”

Section 15. Section 53-20-302, MCA, is amended to read:

“53-20-302. Definition of community home – limitation on number of residents. (1) A community home for persons with developmental disabilities is a family-oriented residence or home designed to provide facilities for two to ~~eight~~ *six* persons with developmental disabilities, established as an alternative to existing state institutions. ~~The number of persons with developmental disabilities may not exceed eight in a community home, except that the department of public health and human services may grant written approval for more than eight but not more than twelve persons.~~

(2) *The department may waive the limit on the number of residents prescribed in subsection (1) for a community home licensed and in operation prior to [the effective date of this act].”*

Section 16. Section 53-20-305, MCA, is amended to read:

“53-20-305. Local control of community Community homes – departmental licensing, administration, operation, health and safety standards. (1) ~~Community homes~~ *A person may not operate a community home* for persons with developmental disabilities, *also referred to as a facility,* may be under local control, and the nonprofit corporations or associations operating community homes are authorized to establish homes and programs ~~they believe in the best interest of their homes unless the facility is licensed by the department.~~

(2) ~~(a)~~ A community home for persons with developmental disabilities must be *inspected and* licensed annually by the department of public health and human services.

~~(b) One temporary license may be issued for no longer than 60 days if there are unavoidable delays in the certification process.~~

(3) *A license may not be sold, assigned, or transferred. Upon discontinuance of the operation or upon transfer of ownership of a facility, the license must be returned to the department or destroyed by the owners.*

(4) *A facility shall display its license in a conspicuous place near its admitting office.*

(5) *If a facility is the subject of substantiated claims of abuse, neglect, or exploitation, or if a facility does not meet the minimum standards for operating a community home for people with developmental disabilities, the department may reduce the facility's license to, or issue the facility, a provisional license for less than 1 year if operation or continued operation of the facility will not result in undue hazards to its residents.*

(6) The department may inspect a licensed community home for people with severe disabilities whenever it considers necessary. The entire premises of a licensed facility must be open to inspection, and access to all records must be granted at all reasonable times.

(3)(7) The department of public health and human services for the purpose of licensing shall adopt standards and rules concerning the administration, operation, health, and safety of community homes for persons with developmental disabilities.”

Approved May 5, 2025

CHAPTER NO. 415

[SB 518]

AN ACT REVISING LAWS RELATED TO EMERGENCY CARE PROVIDERS; TRANSFERRING LICENSING OVERSIGHT FOR EMERGENCY CARE PROVIDERS FROM THE BOARD OF MEDICAL EXAMINERS TO THE DEPARTMENT OF LABOR AND INDUSTRY; REVISING THE MEMBERSHIP OF THE BOARD OF MEDICAL EXAMINERS; REVISING LAWS RELATED TO MEDICAL CARE STANDARDS; REVISING DEFINITIONS; DEFINING COMMUNITY-INTEGRATED HEALTH CARE; PROVIDING RULEMAKING AUTHORITY TO THE DEPARTMENT OF LABOR AND INDUSTRY; AMENDING SECTIONS 2-15-1731, 37-1-401, 37-3-102, 37-3-203, 39-71-118, 50-6-104, 50-6-105, 50-6-201, 50-6-202, 50-6-203, 50-6-302, 50-6-323, 50-32-603, AND 61-2-502, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-1731, MCA, is amended to read:

“2-15-1731. Board of medical examiners. (1) In accordance with 37-1-123, there is a Montana state board of medical examiners.

(2) The board consists of ~~12~~ 11 members:

(a) five doctors of medicine, including one with experience in emergency medicine, none of whom may be from the same county;

(b) one doctor of osteopathy;

(c) one podiatrist;

(d) one nutritionist;

(e) one physician assistant; *and*

~~(f) one emergency care provider, as defined in 50-6-202, who may be a volunteer emergency care provider; and~~

~~(g)~~ (f) two public members.

(3) The board is allocated to the department as prescribed in 2-15-121.”

Section 2. Section 37-1-401, MCA, is amended to read:

“37-1-401. (Temporary) Uniform regulation for licensing programs without boards – definitions. As used in this part, the following definitions apply:

(1) “Complaint” means a written allegation filed with the department that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(2) “Department” means the department of labor and industry provided for in 2-15-1701.

(3) “Investigation” means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a complaint or other information before the department, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the department;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether the department should seek an injunction.

(4) "License" means permission in the form of a license, permit, endorsement, certificate, recognition, or registration granted by the state of Montana to engage in a business activity or practice at a specific level in a profession or occupation governed by:

(a) Title 37, chapter 2, part 6;

(b) Title 37, chapter 16, 40, 56, 60, 72, or 73; or

(c) Title 50, chapter 6, 39, 74, or 76.

(5) "Profession" or "occupation" means a profession or occupation regulated by the department under the provisions of:

(a) Title 37, chapter 2, part 6;

(b) Title 37, chapter 16, 40, 49, 56, 60, 72, or 73; or

(c) Title 50, chapter 6, 39, 74, or 76. (Terminates June 30, 2031--sec. 10, Ch. 628, L. 2023.)

37-1-401. (Effective July 1, 2031) Uniform regulation for licensing programs without boards – definitions. As used in this part, the following definitions apply:

(1) "Complaint" means a written allegation filed with the department that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(2) "Department" means the department of labor and industry provided for in 2-15-1701.

(3) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a complaint or other information before the department, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the department;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether the department should seek an injunction.

(4) "License" means permission in the form of a license, permit, endorsement, certificate, recognition, or registration granted by the state of Montana to engage in a business activity or practice at a specific level in a profession or occupation governed by:

(a) Title 37, chapter 16, 40, 56, 60, 72, or 73; or

(b) Title 50, chapter 6, 39, 74, or 76.

(5) "Profession" or "occupation" means a profession or occupation regulated by the department under the provisions of:

(a) Title 37, chapter 16, 40, 49, 56, 60, 72, or 73; or

(b) Title 50, chapter 6, 39, 74, or 76."

Section 3. Section 37-3-102, MCA, is amended to read:

"37-3-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "ACGME" means the accreditation council for graduate medical education.

(2) "AOA" means the American osteopathic association.

(3) "Approved internship" means an internship training program of at least 1 year in a program that either is approved for intern training by the AOA or conforms to the standards for intern training established by the ACGME or successors. However, the board may, upon investigation, approve any other internship.

(4) “Approved medical school” means a school that either is accredited by the AOA or conforms to the education standards established by the LCME or the world health organization or successors for medical schools that meet standards established by the board by rule.

(5) “Approved residency” means a residency training program conforming to the standards for residency training established by the ACGME or successors or approved for residency training by the AOA.

(6) “Board” means the Montana state board of medical examiners provided for in 2-15-1731.

~~(7) “Community-integrated health care” means the provision of out-of-hospital medical services that an emergency care provider with an endorsement may provide as determined by board rule.~~

(8)(7) “Department” means the department of labor and industry provided for in Title 2, chapter 15, part 17.

~~(9) “Emergency care provider” or “ECP” means a person licensed by the board, including but not limited to an emergency medical responder, an emergency medical technician, an advanced emergency medical technician, or a paramedic. An emergency care provider with an endorsement may provide community-integrated health care.~~

~~(10)(8)~~ “LCME” means the liaison committee on medical education.

~~(11)(9)~~ “Medical assistant” means an unlicensed allied health care worker who functions under the supervision of a physician, physician assistant, or podiatrist in a physician’s or podiatrist’s office and who performs administrative and clinical tasks.

~~(12)(10)~~ “Physician” means a person who holds a degree as a doctor of medicine or doctor of osteopathy and who has a valid license to practice medicine or osteopathic medicine in this state.

~~(13)(11)~~ “Practice of medicine” means the diagnosis, treatment, or correction of or the attempt to or the holding of oneself out as being able to diagnose, treat, or correct human conditions, ailments, diseases, injuries, or infirmities, whether physical or mental, by any means, methods, devices, or instrumentalities, including electronic and technological means such as telemedicine. If a person who does not possess a license to practice medicine in this state under this chapter and who is not exempt from the licensing requirements of this chapter performs acts constituting the practice of medicine, the person is practicing medicine in violation of this chapter.

~~(14)(12)~~ “Store-and-forward technology” means electronic information, imaging, and communication that is transferred, recorded, or otherwise stored in order to be reviewed at a later date by a health care provider or health care facility at a distant site without the patient present in real time. The term includes interactive audio, video, and data communication.

~~(15)(13)~~ (a) “Telemedicine” means the practice of medicine using interactive electronic communications, information technology, audio-only conversations, or other means between a licensee in one location and a patient in another location with or without an intervening health care provider. Telemedicine includes the application of secure videoconferencing or store-and-forward technology.

(b) The term does not mean an e-mail or instant messaging conversation or a message sent by facsimile transmission.

(c) For physicians providing written certification of a debilitating medical condition pursuant to 16-12-509, the term does not include audio-only communication unless the physician has previously established a physician-patient relationship through an in-person encounter.”

Section 4. Section 37-3-203, MCA, is amended to read:

“37-3-203. Powers and duties -- rulemaking authority. (1) The board may:

(a) adopt rules necessary or proper to carry out the requirements in this chapter and of chapters covering podiatry, physician assistants, *and* nutritionists; ~~and emergency care providers as set forth in Title 37, chapters 6, 20, and 25, and 50-6-203; respectively. Rules adopted for emergency care providers with an endorsement to provide community-integrated health care must address the scope of practice, competency requirements, and educational requirements.~~

(b) hold hearings and take evidence in matters relating to the exercise and performance of the powers and duties vested in the board;

(c) aid the county attorneys of this state in the enforcement of parts 1 through 4 and 8 of this chapter as well as Title 37, chapters 6, 20, and 25; ~~and Title 50, chapter 6, regarding emergency care providers licensed by the board.~~ The board also may assist the county attorneys of this state in the prosecution of persons, firms, associations, or corporations charged with violations of the provisions listed in this subsection (1)(c).

(d) review certifications of disability and determinations of eligibility for a permit to hunt from a vehicle as provided in 87-2-803(11); and

(e) fund additional staff, hired by the department, to administer the provisions of this chapter, by increasing license fees as necessary.

(2) (a) The board shall establish a medical assistance program to assist and rehabilitate licensees who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness or chronic physical illness.

(b) The board shall ensure that a licensee who is required or volunteers to participate in the medical assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a qualified treatment program outside the state unless the board finds that there is no qualified treatment program in this state.

(3) (a) The board shall report annually on the number and types of complaints it has received involving physician practices in providing written certification, as defined in 16-12-502, for the use of marijuana for a debilitating medical condition provided for in Title 16, chapter 12, part 5. The report must contain:

(i) the number of complaints received by the board pursuant to 37-1-308;

(ii) the number of complaints for which a reasonable cause determination was made pursuant to 37-1-307;

(iii) the general nature of the complaints;

(iv) the number of investigations conducted into physician practices in providing written certification; and

(v) the number of physicians disciplined by the board for their practices in providing written certification for the use of marijuana for a debilitating medical condition.

(b) Except as provided in subsection (3)(c), the report may not contain individual identifying information regarding the physicians about whom the board received complaints.

(c) For each physician against whom the board takes disciplinary action related to the physician's practices in providing written certification for the use of marijuana for a debilitating medical condition, the report must include:

(i) the name of the physician;

(ii) the general results of the investigation of the physician's practices; and

(iii) the disciplinary action taken against the physician.

(d) The board shall provide the report to the economic affairs interim committee in accordance with 5-11-210 and shall make a copy of the report available on the board's website.

(4) The board may enter into agreements with other states for the purposes of mutual recognition of licensing standards and licensing of physicians ~~and emergency care providers~~ from other states under the terms of a mutual recognition agreement."

Section 5. Section 39-71-118, MCA, is amended to read:

"39-71-118. Employee, worker, volunteer, volunteer firefighter, and volunteer emergency care provider defined – election of coverage.

(1) As used in this chapter, the term "employee" or "worker" means:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations, except those officers identified in 39-71-401(2), while rendering actual service for the corporations for pay. Casual employees, as defined by 39-71-116, are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic employment is excluded.

(b) any juvenile who is performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person who is receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with an employer, as defined in 39-71-117, and, except as provided in subsection (7), whether or not receiving payment from a third party. However, this subsection (1)(c) does not apply to students enrolled in vocational training programs, as outlined in this subsection, while they are on the premises of a public school or community college.

(d) an aircrew member or other person who is employed as a volunteer under 67-2-105;

(e) a person, other than a juvenile as described in subsection (1)(b), who is performing community service for a nonprofit organization or association or for a federal, state, or local government entity under a court order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under appointment or contract of hire with an employer, as defined in 39-71-117, and whether or not receiving payment from a third party. For a person covered by the definition in this subsection (1)(e):

(i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an impairment award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part 4, for a full-time employee at the time of the injury; and

(ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service required under the order from the court or hearings officer.

(f) an inmate working in a federally certified prison industries program authorized under 53-30-132;

(g) a volunteer firefighter as described in 7-33-4109 or a person who provides ambulance services under Title 7, chapter 34, part 1;

(h) a person placed at a public or private entity's worksite pursuant to 53-4-704. The person is considered an employee for workers' compensation purposes only. The department of public health and human services shall provide workers' compensation coverage for recipients of cash assistance, as defined in 53-4-201, or for participants in the food stamp program, as defined in 53-2-902, who are placed at public or private worksites through an endorsement to the department of public health and human services' workers' compensation policy naming the public or private worksite entities as named insureds under the policy. The endorsement may cover only the entity's public assistance participants and may be only for the duration of each participant's training while receiving cash assistance or while participating in the food stamp program under a written agreement between the department of public health and human services and each public or private entity. The department of public health and human services may not provide workers' compensation coverage for individuals who are covered for workers' compensation purposes by another state or federal employment training program. Premiums and benefits must be based upon the wage that a probationary employee is paid for work of a similar nature at the assigned worksite.

(i) subject to subsection (11), a member of a religious corporation, religious organization, or religious trust while performing services for the religious corporation, religious organization, or religious trust, as described in 39-71-117(1)(d); and

(j) a member of the army national guard or air national guard while performing state military duty as defined in 10-1-1003.

(2) The terms defined in subsection (1) do not include a person who is:

(a) performing voluntary service at a recreational facility and who receives no compensation for those services other than meals, lodging, or the use of the recreational facilities;

(b) performing services as a volunteer, except for a person who is otherwise entitled to coverage under the laws of this state. As used in this subsection (2)(b), "volunteer" means a person who performs services on behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined in 39-71-123.

(c) serving as a foster parent, licensed as a foster care provider in accordance with 52-2-621, and providing care without wage compensation to no more than six foster children in the provider's own residence. The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure and recreational activities, and providing for other needs and activities arising in the provision of in-home foster care.

(d) performing temporary agricultural work for an employer if the person performing the work is otherwise exempt from the requirement to obtain workers' compensation coverage under 39-71-401(2)(r) with respect to a company that primarily performs agricultural work at a fixed business location or under 39-71-401(2)(d) and is not required to obtain an independent contractor's exemption certificate under 39-71-417 because the person does not regularly perform agricultural work away from the person's own fixed business location. For the purposes of this subsection, the term "agricultural" has the meaning provided in 15-1-101(1)(a).

(3) With the approval of the insurer, an employer may elect to include as an employee under the provisions of this chapter a volunteer as defined in subsection (2)(b) or a volunteer firefighter as defined in 7-33-4510.

(4) (a) If the employer is a partnership, limited liability partnership, sole proprietor, or a member-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any member of the partnership or limited liability partnership, the owner of the sole proprietorship, or any member of the limited liability company devoting full time to the partnership, limited liability partnership, proprietorship, or limited liability company business.

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the partners, sole proprietor, or members to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (4)(d). A partner, sole proprietor, or member is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection (4)(d). For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than \$900 a month and not more than 1 1/2 times the state's average weekly wage.

(5) (a) If the employer is a quasi-public or a private corporation or a manager-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any corporate officer or manager exempted under 39-71-401(2).

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the corporate officer or manager to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A corporate officer or manager is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) For the purposes of an election under this subsection (5), all weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection (5)(d). For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than \$200 a week and not more than 1 1/2 times the state's average weekly wage.

(6) Except as provided in Title 39, chapter 8, an employee or worker in this state whose services are furnished by a person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, to an employer, as defined in 39-71-117, is presumed to be under the control and employment of the employer. This presumption may be rebutted as provided in 39-71-117(3).

(7) (a) A student currently enrolled in an elementary, secondary, or postsecondary educational institution who is participating in work-based learning activities and who is paid wages by the educational institution or business partner is the employee of the entity that pays the student's wages for all purposes under this chapter.

(b) An elementary or secondary student who is not paid wages by the business partner or the educational institution in which the student is enrolled is a volunteer for whom coverage must be provided. The business partner and

the educational institution shall mutually determine and agree in writing whether the business partner or the educational institution shall elect coverage for the student.

(8) For purposes of this section, an “employee or worker in this state” means:

(a) a resident of Montana who is employed by an employer and whose employment duties are primarily carried out or controlled within this state;

(b) a nonresident of Montana whose principal employment duties are conducted within this state on a regular basis for an employer;

(c) a nonresident employee of an employer from another state engaged in the construction industry, as defined in 39-71-116, within this state; or

(d) a nonresident of Montana who does not meet the requirements of subsection (8)(b) and whose employer elects coverage with an insurer that allows an election for an employer whose:

(i) nonresident employees are hired in Montana;

(ii) nonresident employees’ wages are paid in Montana;

(iii) nonresident employees are supervised in Montana; and

(iv) business records are maintained in Montana.

(9) An insurer may require coverage for all nonresident employees of a Montana employer who do not meet the requirements of subsection (8)(b) or (8)(d) as a condition of approving the election under subsection (8)(d).

(10) (a) An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county may elect to include as an employee within the provisions of this chapter a volunteer emergency care provider who serves public safety through the ambulance service not otherwise covered by subsection (1)(g) or the paid or volunteer nontransporting medical unit. The ambulance service or nontransporting medical unit may purchase workers’ compensation coverage from any entity authorized to provide workers’ compensation coverage under plan No. 1, 2, or 3 as provided in this chapter.

(b) If there is an election under subsection (10)(a), the employer shall report payroll for all volunteer emergency care providers for premium and weekly benefit purposes based on the number of volunteer hours of each emergency care provider, but no more than 60 hours, times the state’s average weekly wage divided by 40 hours.

(c) An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, may make a separate election to provide benefits as described in this subsection (10) to a member who is either a self-employed sole proprietor or partner who has elected not to be covered under this chapter, but who is covered as a volunteer emergency care provider pursuant to subsection (10)(a). When injured in the course and scope of employment as a volunteer emergency care provider, a member may instead of the benefits described in subsection (10)(b) be eligible for benefits at an assumed wage of the minimum wage established under Title 39, chapter 3, part 4, for 2,080 hours a year. If the separate election is made as provided in this subsection (10), payroll information for those self-employed sole proprietors or partners must be reported and premiums must be assessed on the assumed weekly wage.

(d) A volunteer emergency care provider who receives workers’ compensation coverage under this section may not receive disability benefits under Title 19, chapter 17, if the individual is also eligible as a volunteer firefighter.

(e) An ambulance service not otherwise covered by subsection (1)(g) or a nontransporting medical unit, as defined in 50-6-302, that does not elect to purchase workers’ compensation coverage for its volunteer emergency care providers under the provisions of this section shall annually notify its volunteer emergency care providers that coverage is not provided.

(f) (i) The term “volunteer emergency care provider” means a person who is licensed by the ~~board of medical examiners~~ *department* as provided in Title 50, chapter 6, part 2, and who serves the public through an ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county.

(ii) The term does not include a volunteer emergency care provider who serves an employer as defined in 7-33-4510.

(g) The term “volunteer hours” means the time spent by a volunteer emergency care provider in the service of an employer or as a volunteer for a town, city, or county, including but not limited to training time, response time, and time spent at the employer’s premises.

(11) The definition of “employee” or “worker” in subsection (1)(i) is limited to implementing the administrative purposes of this chapter and may not be interpreted or construed to create an employment relationship in any other context.”

Section 6. Section 50-6-104, MCA, is amended to read:

“50-6-104. Interdepartmental cooperation required. The department of public health and human services, the ~~board of medical examiners~~ *department of labor and industry*, and other interested departments or divisions shall develop in writing a mutually agreeable plan of cooperation so that governmental efforts are not duplicated and governmental resources are applied on a reasonable priority basis.”

Section 7. Section 50-6-105, MCA, is amended to read:

“50-6-105. Medical care standards – review process. (1) The ~~board of medical examiners~~ *department of labor and industry*, in consultation with the *department of public health and human services*, shall establish patient care standards for:

(a) out-of-hospital emergency medical treatment and interfacility transportation; and

(b) community-integrated health care.

(2) (a) Complaints involving out-of-hospital care, interfacility care, community-integrated health care, patient care within a health care facility, or the operation of an emergency medical service, as defined in 50-6-302, must be filed with the ~~board and reviewed by a screening panel pursuant to 37-1-307~~ *department of labor and industry pursuant to 37-1-402*.

(b) If a complaint is initially filed with the department of public health and human services, ~~the department~~ *it* shall refer the complaint to the ~~board for review by a screening panel~~ *department of labor and industry*.

(3) (a) When a complaint involves the operation or condition of an emergency medical service, the ~~screening panel shall~~ *department of labor and industry shall* refer the complaint to the department of public health and human services for investigation as provided in 50-6-323.

(b) When a complaint involves patient care provided by an emergency care provider, the screening panel shall:

(i) ~~refer the complaint to the board for investigation as provided in 37-1-308 and 50-6-203; and~~

(ii) ~~forward to the department the complaint and the results of the screening panel’s initial review as soon as the review is completed.~~

(c)(b) When a complaint involves a combination of patient care and emergency medical service matters, the ~~screening panel~~ *department of labor and industry* shall refer the complaint to ~~both the department of public health and human services and the board~~ *both the department of public health and human services and the board* for matters that fall within ~~the its~~ *its* jurisdiction of ~~each entity~~.

(4) For a complaint involving patient care, the ~~board~~ *department of labor and industry* shall:

(a) immediately share with the *department of public health and human services* any information indicating:

(i) a potential violation of *department of public health and human services* rules; or

(ii) that the existing policies or practices of an emergency medical service may be jeopardizing patient care; and

(b) notify the *department of public health and human services* when:

(i) a sanction is imposed on an emergency care provider; or

(ii) the complaint is resolved.

(5) For a complaint involving an emergency medical service, the *department of public health and human services* shall:

(a) immediately share with the ~~board~~ *department of labor and industry* any information indicating:

(i) a potential violation of ~~board~~ *department of labor and industry* rules; or

(ii) that the practices of an emergency care provider may be jeopardizing patient care; and

(b) notify the ~~board~~ *department of labor and industry* when:

(i) a sanction is imposed on an emergency medical service; or

(ii) the complaint is resolved.”

Section 8. Section 50-6-201, MCA, is amended to read:

“50-6-201. Legislative findings – duty of ~~board~~ *department of labor and industry*. (1) The legislature finds and declares that a program for emergency care providers is required in order to provide the safest and most efficient delivery of emergency and community-integrated health care.

(2) The legislature further finds that prompt and efficient emergency medical care of the sick and injured at the scene and during transport to a health care facility is important in reducing the mortality and morbidity rate during the first critical minutes immediately after an accident or the onset of an emergent condition.

(3) The legislature further finds that emergency care providers can help fill gaps in the state’s health care system, particularly in rural communities with limited health care services and providers, by providing:

(a) community-integrated health care to prevent illness and injury; and

(b) patient care within a health care facility that is appropriate to a patient’s needs and the emergency care provider’s training.

(4) The ~~board~~ *department of labor and industry* has a duty to ensure that emergency care providers are properly licensed and provide proper treatment to patients in their care.”

Section 9. Section 50-6-202, MCA, is amended to read:

“50-6-202. Definitions. As used in this part, the following definitions apply:

(1) ~~“Board” means the Montana state board of medical examiners provided for in 2-15-1731.~~

(1) *“Community-integrated health care” means the provision of out-of-hospital medical services that an emergency care provider with an endorsement may provide as determined by department of labor and industry rule.*

(2) *“Emergency care provider” means a person licensed by the ~~board~~ department of labor and industry, including but not limited to an emergency medical responder, an emergency medical technician, an advanced emergency medical technician, or a paramedic. An emergency care provider with an endorsement may provide community-integrated health care.*

(3) *“Health care facility” has the meaning provided in 50-5-101.*

(4) “Volunteer emergency care provider” means an individual who is licensed pursuant to this part and provides out-of-hospital, emergency medical, or community-integrated health care, patient care within a health care facility, or interfacility transport:

- (a) on the days and at the times of the day chosen by the individual; and
- (b) for an emergency medical service other than:

(i) a private ambulance company unless the care is provided without compensation and outside of the individual’s regular work schedule; or

(ii) a private business or a public agency, as defined in 7-1-4121, that employs the individual on a regular basis with a regular, hourly wage to provide emergency medical or community-integrated health care as part of the individual’s job duties.”

Section 10. Section 50-6-203, MCA, is amended to read:

“50-6-203. Rules. (1) The ~~board~~ *department of labor and industry*, after consultation with the department of public health and human services and other appropriate departments, associations, and organizations, shall adopt rules of the ~~board~~ implementing this part, including but not limited to:

(a) training and licensure of emergency care providers;

(b) the administration of drugs by emergency care providers; and

(c) the handling of complaints involving patient care provided by emergency care providers.

(2) The ~~board~~ *department of labor and industry* may, by rule, establish various levels of emergency care provider licensure and shall specify for each level the training requirements, acts allowed, relicensure requirements, and any other requirements regarding the training, performance, or licensure of that level of emergency care provider that it considers necessary, subject to the provisions of 37-1-138.”

Section 11. Section 50-6-302, MCA, is amended to read:

“50-6-302. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) “Aircraft” has the meaning provided in 67-1-101. The term includes any fixed-wing airplane or helicopter.

(2) (a) “Ambulance” means a privately or publicly owned motor vehicle or aircraft that is maintained and used for the transportation of patients.

(b) The term does not include:

(i) a motor vehicle or aircraft owned by or operated under the direct control of the United States; or

(ii) air transportation services, such as charter or fixed-based operators, that are regulated by the federal aviation administration and that offer no special medical services or provide only transportation to patients or persons at the direction or under the supervision of an independent physician.

(3) “Board” means the Montana state board of medical examiners provided for in 2-15-1731.

(4) “Community-integrated health care” means the provision of out-of-hospital medical services that an emergency care provider with an endorsement may provide as determined by ~~board~~ *department of labor and industry* rule.

(5) “Department” means the department of public health and human services provided for in 2-15-2201.

(6) “Emergency medical service” means an out-of-hospital health care treatment service or interfacility emergency medical transportation provided by an ambulance or nontransporting medical unit that is licensed by the department to provide out-of-hospital health care treatment services or interfacility emergency medical transportation, including community-integrated health care.

(7) “Nonemergency ambulance transport” means the use of an ambulance to transport a patient between health care facilities, as defined in 50-5-101, including federal facilities, when the patient’s medical condition requires special transportation considerations, supervision, or handling but does not indicate a need for medical treatment during transit or for emergency medical treatment upon arrival at the receiving health care facility.

(8) “Nontransporting medical unit” means an aggregate of persons who are organized to respond to a call for emergency medical service and to treat a patient until the arrival of an ambulance. Nontransporting medical units provide any one of varying types and levels of service defined by department rule but may not transport patients.

(9) “Offline medical direction” means the function of a board-licensed physician or physician assistant in providing:

(a) medical oversight and supervision for an emergency medical service or an emergency care provider; and

(b) review of patient care techniques, emergency medical service procedures, and quality of care.

(10) “Online medical direction” means the function of a board-licensed physician or physician assistant or the function of a designee of the physician or physician assistant in providing direction, advice, or orders to an emergency care provider for interfacility emergency medical transportation, out-of-hospital, emergency medical, or community-integrated health care, or patient care within a health care facility as identified in a plan for offline medical direction.

(11) (a) “Patient” means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.

(b) Unless otherwise defined by rule for community-integrated health care, the term does not include an individual who is nonambulatory and who needs transportation assistance solely because that individual is confined to a wheelchair as the individual’s usual means of mobility.

(12) “Person” means an individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including a governmental agency other than the United States.

(13) “Volunteer emergency care provider” means an individual who is licensed pursuant to Title 50, chapter 6, part 2, and provides out-of-hospital, emergency medical, or community-integrated health care, patient care within a health care facility, or interfacility emergency medical transportation:

(a) on the days and at the times of the day chosen by the individual; and

(b) for an emergency medical service other than:

(i) a private ambulance company, unless the care is provided without compensation and outside of the individual’s regular work schedule; or

(ii) a private business or a public agency, as defined in 7-1-4121, that employs the individual on a regular basis with a regular, hourly wage to provide emergency medical or community-integrated health care as part of the individual’s job duties.”

Section 12. Section 50-6-323, MCA, is amended to read:

“50-6-323. Powers and duties of department. (1) The department has general authority to supervise and regulate emergency medical services in Montana.

(2) Upon referral by ~~a screening panel~~ *the department of labor and industry* pursuant to 50-6-105, the department shall review and may investigate complaints relating to the operation of any emergency medical service.

(3) In investigating a complaint, the department may review:

(a) the type and condition of equipment and procedures used by an emergency medical service to provide care at the scene during prehospital or interfacility transportation or in other out-of-hospital care settings;

(b) the condition of any vehicle or aircraft used as an ambulance;

(c) general performance by an emergency medical service; and

(d) the results of any investigation conducted by the ~~board~~ *department of labor and industry* concerning patient care by an emergency care provider who was, at the time of the complaint, providing care through the emergency medical service that is the subject of a complaint under investigation by the department.

(4) Upon completion of an investigation as provided in subsection (3), the department shall take appropriate action, including sharing information regarding complaints with the ~~board~~ *department of labor and industry* as provided in 50-6-105 and initiating any necessary legal proceedings as authorized under this part.

(5) In order to carry out the provisions of this part, the department shall prescribe and enforce rules for emergency medical services. Rules of the department may include but are not limited to the following:

(a) the classification and identification of specific types and levels of interfacility medical transportation or out-of-hospital treatment services;

(b) procedures for issuing, denying, renewing, and canceling licenses issued under this part;

(c) minimum licensing standards for each type and level of service, including requirements for personnel, offline medical direction, online medical direction, maintenance, equipment, reporting, recordkeeping, sanitation, and minimum insurance coverage as determined appropriate by the department; and

(d) other requirements necessary and appropriate to ensure the quality, safety, and proper operation and administration of emergency medical services.

(6) A rule adopted pursuant to this section must comply with Title 2, chapter 4."

Section 13. Section 50-32-603, MCA, is amended to read:

"50-32-603. Definitions. As used in this part, the following definitions apply:

(1) "Administer" means to apply an opioid antagonist to the body of another person by injection, inhalation, ingestion, auto-injector, or another means.

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "Dispense" or "dispensing" has the meaning provided in 37-7-101.

(4) "Distribute" has the meaning provided in 37-7-101.

(5) "Eligible recipient" means:

(a) a person who is at risk of experiencing an opioid-related drug overdose;

(b) a family member, friend, or other person who is in a position to assist a person who is at risk of experiencing an opioid-related drug overdose;

(c) a first responder or a first responder entity;

(d) a harm reduction organization or its representative;

(e) the Montana state crime laboratory or its representative;

(f) a person who, on behalf of or at the direction of a law enforcement agency or officer, may process, store, handle, test, transport, or possess a suspected or confirmed opioid;

(g) a probation, parole, or detention officer;

(h) a county or other local public health department or its representative; or

(i) a veterans' organization or its representative.

(6) “First responder” means a paid or volunteer firefighter, law enforcement officer, or other authorized person who responds to an emergency in a professional or volunteer capacity. The term does not include an ECP, also known as an emergency care provider, as defined in ~~37-3-102~~ *50-6-202*.

(7) “Harm reduction organization” means an organization that provides direct assistance and services, including but not limited to counseling, screening, and drug treatment, to persons at risk of experiencing an opioid-related drug overdose.

(8) “Law enforcement officer” means a person who is a peace officer as defined in 46-1-202 or any other agent of a criminal justice agency as defined in 44-5-103.

(9) “Medical practitioner” has the meaning provided in 37-2-101.

(10) “Opioid antagonist” means a drug that binds to opioid receptors and blocks or inhibits the effects of opioids acting on those receptors. The term includes naloxone hydrochloride and any other similarly acting drug approved by the United States food and drug administration.

(11) “Opioid-related drug overdose” means an acute condition evidenced by symptoms, including but not limited to physical illness, pinpoint pupils, coma, decreased level of consciousness, or respiratory depression, resulting from the consumption or use of an opioid or another substance with which an opioid is combined.

(12) “Standing order” means a written document prepared by a medical practitioner that authorizes an eligible recipient to acquire, distribute, or administer medication without a person-specific prescription.

(13) “State medical officer” means a physician licensed to practice medicine under Title 37, chapter 3, who is employed by the department to, among other things, provide advice and expertise to the department on medical policy and issues of public health importance.”

Section 14. Section 61-2-502, MCA, is amended to read:

“61-2-502. Definitions. As used in this part, the following definitions apply:

(1) “Aircraft” has the meaning provided in 67-1-101. The term includes any fixed-wing airplane or helicopter.

(2) (a) “Ambulance” means a privately or publicly owned motor vehicle or aircraft that is maintained and used for the transportation of patients.

(b) The term does not include:

(i) a motor vehicle or aircraft owned by or operated under the direct control of the United States; or

(ii) air transportation services, such as charter or fixed-based operators, that are regulated by the federal aviation administration and that offer no special medical services or provide only transportation to patients or persons at the direction or under the supervision of an independent physician.

(3) “Board” means the Montana state board of medical examiners provided for in ~~2-15-1731~~.

~~(4)~~(3) “Department” means the department of transportation provided for in 2-15-2501.

~~(5)~~(4) “Emergency care provider” means a person licensed by the board pursuant to Title 50, chapter 6, part 2, including but not limited to an emergency medical responder, an emergency medical technician, an advanced emergency medical technician, or a paramedic. An emergency care provider with an endorsement may provide community-integrated health care.

~~(6)~~(5) “Emergency medical service” means an out-of-hospital treatment service or interfacility emergency medical transportation provided by an ambulance or nontransporting medical unit.

(7)(6) (a) “Emergency response vehicle” means a vehicle used for the dedicated purpose of responding to emergency medical calls.

(b) The term does not include a vehicle used for an individual’s personal purposes.

(8)(7) “Nontransporting medical unit” means an aggregate of persons who are organized to respond to a call for emergency medical service and to treat a patient until the arrival of an ambulance. Nontransporting medical units provide any one of varying types and levels of service defined by department of public health and human services rule but may not transport patients.

(9)(8) (a) “Patient” means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.

(b) Unless otherwise defined by rule for community-integrated health care, the term does not include an individual who is nonambulatory and who needs transportation assistance solely because that individual is confined to a wheelchair as the individual’s usual means of mobility.

(10)(9) “Person” means an individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including a governmental agency other than the United States.

(11)(10) “Volunteer emergency care provider” means an individual who is licensed pursuant to Title 50, chapter 6, part 2, and provides out-of-hospital, emergency medical, or community-integrated health care or interfacility transport:

(a) on the days and the times of the day chosen by the individual; and

(b) for an emergency medical service other than:

(i) a private ambulance company, unless the care is provided without compensation and outside of the individual’s regular work schedule; or

(ii) a private business or a public agency, as defined in 7-1-4121, that employs the individual on a regular basis with a regular, hourly wage to provide emergency medical or community-integrated health care as part of the individual’s job duties.”

Section 15. Effective date. [This act] is effective January 1, 2026.

Approved May 5, 2025

CHAPTER NO. 416

[HB 8]

AN ACT APPROVING RENEWABLE RESOURCE PROJECTS AND AUTHORIZING LOANS; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR LOANS UNDER THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; AUTHORIZING THE ISSUANCE OF COAL SEVERANCE TAX BONDS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Authorization to provide loans. (1) The legislature finds that the renewable resource projects listed in this section meet the provisions of 17-5-702. The department of natural resources and conservation is authorized to make loans to the political subdivisions of state government and local governments listed in subsection (2) in amounts not to exceed the loan amounts listed for each project from the proceeds of the bonds authorized in [section 3].

(2) The interest rate for the projects in this subsection is 3.0% or the rate at which the state bonds are sold, whichever is lower, for up to 30 years:

Loan	Amount
DNRC Water Resources Division	
DNRC Willow Creek Dam Rehabilitation	\$14,000,000
DNRC Water Resources Division	
DNRC Painted Rocks Dam Rehabilitation, Phase 1	\$15,000,000
Fort Shaw Irrigation District	
Fort Shaw Irrigation District Simms Creek Siphon Replacement	\$5,181,317
Hammond Irrigation District	
Hammond Irrigation District Big Porcupine Siphon Rehabilitation	\$241,900
Kinsey Irrigation District	
Kinsey Irrigation District Harris Creek Spill Structure Rehabilitation	\$511,520
Kinsey Irrigation District	
Kinsey Irrigation District Hammerbacker Lateral to Pipeline Conversion	\$840,823
Zurich Irrigation District	
Zurich Irrigation District Brown Creek Siphon Rehabilitation	\$872,884

Section 2. Projects not completing requirements – projects reauthorized. (1) The legislature finds that the renewable resource projects listed in this section that were approved by the 68th legislature in Chapter 463, Laws of 2023, may not complete the requirements necessary to obtain the loan funds prior to June 30, 2025. The projects described in this section are reauthorized. The department of natural resources and conservation is authorized to make loans to the political subdivisions of state government and local governments listed in subsection (2) in amounts not to exceed the loan amounts listed for each project from the proceeds of the bonds authorized in [section 3].

(2) The interest rate for the projects in this subsection is 3.0% or the rate at which the state bonds are sold, whichever is lower, for up to 30 years:

Loan	Amount
Greenfields Irrigation District	
Hydropower Development	\$1,500,000
DNRC Conservation and Resource Development Division	
Refinance Existing Debt or Rehabilitation of Infrastructure Facilities	\$8,000,000
Central Montana Regional Water Authority	
Local Match for Central Montana Regional Water Projects	\$5,000,000
Dry-Redwater Regional Water Authority	
Local Match for Dry-Redwater Regional Water Projects	\$10,000,000
Dry Prairie Regional Water Authority	
Local Match for Dry Prairie Regional Water Projects	\$5,000,000
North Central Regional Water Authority	
Local Match for North Central Regional Water Projects	\$10,000,000

Huntley Irrigation District Reauthorization Tunnel 2 and Canal System	\$3,500,000
Lockwood Irrigation District Box Elder Siphon, Pump Station, and Pump 3	\$1,550,000
St. Mary's Milk River Project Beneficiaries Share	\$40,000,000

Section 3. Coal severance tax bonds authorized. (1) The legislature finds that Title 17, chapter 5, part 7, provides for the issuance of coal severance tax bonds for financing specific, approved, renewable resource projects as part of the state renewable resource grant and loan program. Available funds from previous sales of coal severance tax bonds, plus any additional principal amount on bonds as may be necessary, pursuant to the conditions described in 85-1-605, to fund emergency loans, as authorized and approved in accordance with 85-1-605(4), may also be used for the projects approved in [sections 1 and 2]. The board of examiners is authorized to issue coal severance tax bonds in an amount not to exceed \$121,198,444 in the biennium beginning July 1, 2025, of which up to \$12,119,844 is to be used to establish a reserve for the bonds. Proceeds of the bonds are appropriated to the department of natural resources and conservation for financing the projects identified in [sections 1 and 2] and may be used as authorized in 85-1-605(4). Loans made under 85-1-605(4) must bear interest at the rate borne by the state bonds unless the legislature in a subsequent session provides for a lower interest rate, in which case the rate must be reduced to the rate specified by the legislature.

(2) In connection with the issuance of coal severance tax bonds, the board of examiners may pay the principal and interest on the bonds when due from the debt service account and in all other respects manage and use the funds within each special bond account for the benefit of the bonds. The board of examiners shall exercise its discretion to enhance the marketability of the bonds and to secure the most advantageous financial arrangements for the state.

(3) Earnings on the bond proceeds prior to the completion of any loan must be allocated to the debt service account to pay the debt service on the bonds during this period. Earnings in excess of debt service, if any, must be allocated to the natural resources projects state special revenue account established in 15-38-302.

(4) Loan repayments from loans financed with coal severance tax bonds are pledged, dedicated, and appropriated to the debt service account in the state treasury for the benefit of bonds approved for loans under this section.

Section 4. Condition of loans. (1) Disbursement of funds under [sections 1 through 3] for loans is subject to the following conditions that must be met by project sponsors:

(a) approval of a scope of work and budget for the project by the department of natural resources and conservation. Reductions in a scope of work or budget may not affect priority activities or improvements.

(b) documented commitment of other funds required for project completion;

(c) satisfactory completion of conditions described in the recommendations section of the project narrative in the renewable resource grant and loan program project evaluations and recommendations report;

(d) execution of a loan agreement with the department of natural resources and conservation; and

(e) completion of other specific requirements considered necessary by the department of natural resources and conservation to accomplish the purpose of the loan as evidenced from the application to the department or from the proposal to the legislature.

(2) Each sponsor authorized for a loan from coal severance tax bond proceeds may be required to pay to the department of natural resources and

conservation a pro rata share of the bond issuance costs and the administrative costs incurred by the department to complete the loan transaction.

Section 5. Private and discount purchase of loans. Loans to political subdivisions and local government entities pursuant to [sections 1 through 3] and bonds, warrants, and notes issued in evidence of those loans may be made, purchased by, and sold to the department of natural resources and conservation at a discount and at a private negotiated sale, notwithstanding the provisions of any other law applicable to political subdivisions or local government entities.

Section 6. Appropriations established. For any entity of state government that receives a loan under [sections 1 through 3], an appropriation is established for the amount of the loan upon award of the loan by the department of natural resources and conservation for the biennium beginning July 1, 2025.

Section 7. Creation of state debt – two-thirds vote required – appropriation of coal severance tax – three-fourths vote required – bonding provisions. (1) Because [section 3] authorizes the creation of state debt, Article VIII, section 8, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

(2) The legislature, through the enactment of [sections 1 through 7] by a vote of three-fourths of the members of each house of the legislature, as required by Article IX, section 5, of the Montana constitution, pledges, dedicates, and appropriates from the coal severance tax bond fund all money necessary for the payment of principal and interest not otherwise provided for on the coal severance tax bonds authorized by [section 3] to be issued pursuant to Title 17, chapter 5, part 7, and pursuant to the provisions of [sections 1 through 7] and the general resolution for this bond program that has been adopted by the board of examiners under the authority provided in Title 17, chapter 5, part 7.

Section 8. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 9. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 10. Effective date. [This act] is effective July 1, 2025.

Approved May 5, 2025

CHAPTER NO. 417

[HB 26]

AN ACT REPEALING THE MERCURY-ADDED THERMOSTAT COLLECTION ACT; REPEALING SECTIONS 75-10-1501, 75-10-1502, 75-10-1503, 75-10-1504, 75-10-1505, 75-10-1506, 75-10-1507, 75-10-1508, AND 75-10-1509, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. The following sections of the Montana Code Annotated are repealed:

75-10-1501. Short title.

75-10-1502. Purpose.

75-10-1503. Definitions.

75-10-1504. Prohibition on sale and installation of mercury-added thermostats -- list.

75-10-1505. Manufacturer collection and recycling program -- requirements.

75-10-1506. Initial education and outreach -- requirements.

75-10-1507. Annual report -- publication.

75-10-1508. Wholesaler collection sites.

75-10-1509. Rulemaking authority.

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 418

[HB 40]

AN ACT PROVIDING FOR A SPECIAL REVENUE ACCOUNT FOR REVIEW OF PUBLIC WATER SUPPLY OR PUBLIC SEWAGE SYSTEM PLANS AND SPECIFICATIONS; AMENDING SECTIONS 75-6-104, 75-6-108, AND 75-6-115, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Plan review special revenue account. (1) There is a plan review special revenue account within the state special revenue fund established in 17-2-102.

(2) There must be credited to the account the revenue from fees assessed, collected, and allocated pursuant to 75-6-108(3).

(3) Funds from the account may be used only to pay department costs in implementing plan and specification review, as described in this part.

Section 2. Section 75-6-104, MCA, is amended to read:

“75-6-104. Duties of department. (1) The department has general supervision over all state waters that are directly or indirectly being used by a person for a public water supply system, for domestic purposes, or as a source of ice.

(2) The department shall, subject to the provisions of 75-6-116 and as provided in 75-6-131, adopt rules and standards concerning:

(a) maximum contaminant levels for waters that are or will be used for a public water supply system;

(b) fees, as described in 75-6-108, for services rendered by the department;

(c) monitoring, recordkeeping, and reporting by persons who own or operate public water supply systems;

(d) requiring public notice to all users of a public water supply system when a person has been granted a variance or exemption or is in violation of this part or a rule or order issued pursuant to this part;

(e) the siting, construction, operation, and modification of a public water supply system or public sewage system, including requirements to remedy:

(i) defects in the design, operation, or maintenance of a public water supply system or public sewage system in order to prevent or correct introduction of contamination into water used for a public water supply system, for domestic purposes, or as a source of ice;

(ii) fecal contamination in water used by a public water supply system; or

(iii) failure or malfunction of the sources, treatment, storage, or distribution portion of a public water supply system in order to prevent or correct introduction of contamination into water used for a public water supply system, for domestic purposes, or as a source of ice;

(f) the review of the technical, managerial, and financial capacity of a proposed public water supply system or public sewage system, as necessary to ensure the capability of the system to meet the requirements of this part;

(g) the collection and analysis of samples of water used for drinking or domestic purposes;

(h) the issuance of variances and exemptions as authorized by the federal Safe Drinking Water Act and this part;

(i) administrative enforcement procedures and administrative penalties authorized under this part;

(j) standards and requirements for the review and approval of programs that may be voluntarily submitted by suppliers of public water supply systems to prevent water supply contamination from a cross-connection, including provisions to exempt cross-connections from the standards and requirements if all connected systems are department-approved public water supply systems;

(k) (i) allowable uses of reclaimed wastewater and classification of those uses;

(ii) treatment, monitoring, recordkeeping, and reporting standards and requirements tailored to each classification that must be met by the public sewage system to protect the uses of the reclaimed wastewater and any receiving water;

(iii) prohibition of reclaimed wastewater uses that are not allowable under subsection (2)(k)(i) or for which the reclaimed wastewater has not been treated in compliance with rules adopted under subsection (2)(k)(ii); and

(iv) a requirement that an applicant who proposes to use reclaimed wastewater pursuant to this subsection (2)(k) has obtained any necessary authorizations required under Title 85 from the department of natural resources and conservation; and

(l) any other requirement necessary for the protection of public health as described in this part.

(3) Department rules must provide for the following:

(a) except as provided in 75-6-131, a water supply or water distribution facility reviewed and approved by the department is not subject to changes in department design and construction criteria for a period of 36 months after written approval of the facility is issued by the department;

(b) except for facilities subject to permit requirements under Title 75, chapter 5, part 4, and except as provided under rules adopted pursuant to 75-6-131, a system of water supply, drainage, wastewater, or sewage reviewed and approved under this section is not subject to changes in department design or construction criteria for a period of 36 months after written approval is issued by the department;

(c) plans and specifications for a portion of a facility or system subject to a 36-month limit on criteria changes pursuant to subsections (3)(a) and (3)(b) but not constructed within the 36-month timeframe must be resubmitted for department review and approval before construction of that portion of the facility;

(d) the provisions of this subsection (3) may not limit an applicant's ability to alter a proposed project that is otherwise in conformance with applicable laws, rules, standards, and criteria; and

(e) department approval of development plans for a municipal system that allows additional connections above the approved rated capacity of a water or wastewater system pursuant to 75-6-130.

(4) The department or the board may issue orders necessary to fully implement the provisions of this part.

(5) The department shall:

(a) on its own initiative or complaint to the department, to the mayor or health officer of a municipality, or to the managing board or officer of a public institution, make an investigation of alleged pollution of a water supply system and, if required, prohibit the continuance of the pollution by ordering removal of the cause of pollution;

(b) have waters examined to determine their quality and the possibility that they may endanger public health;

(c) consult and advise authorities of cities and towns and persons having or about to construct systems for water supply, drainage, wastewater, and sewage as to the most appropriate source of water supply and the best method of ensuring its quality;

(d) advise persons as to the best method of treating and disposing of their drainage, sewage, or wastewater with reference to the existing and future needs of other persons and to prevent pollution;

(e) consult with persons engaged in or intending to engage in manufacturing or other business whose drainage or sewage may tend to pollute waters as to the best method of preventing pollution;

(f) collect fees, as described in 75-6-108, for services and deposit:

(i) the *public drinking water* fees collected in the public drinking water special revenue fund established in 75-6-115; and

(ii) the *plan and specification review fees collected in the plan review special revenue account established in [section 1]*;

(g) establish and maintain experiment stations and conduct experiments to study the best methods of treating water, drainage, wastewater, and sewage to prevent pollution, including investigation of methods used in other states;

(h) enter on premises at reasonable times to determine sources of pollution or danger to water supply systems and whether rules and standards of the department are being obeyed;

(i) enforce and administer the provisions of this part;

(j) establish a plan for the provision of safe drinking water under emergency circumstances;

(k) maintain an inventory of public water supply systems and establish a program for conducting sanitary surveys;

(l) enter into agreements with local boards of health whenever appropriate for the performance of surveys and inspections under the provisions of this part; and

(m) review in the form of a written response within 60 days to an applicant seeking approval for use of reclaimed wastewater for snowmaking subject to subsection (2)(k) that:

(i) approves, approves with conditions, or denies the application pursuant to the provisions of this part; and

(ii) (A) describes additional information that must be submitted prior to department approval under subsection (5)(m)(i); or

(B) describes any additional requirements that the applicant must satisfy prior to department approval under subsection (5)(m)(i), such as a permit to discharge under Title 75, chapter 5, part 4, or an authorization under Title 85 from the department of natural resources and conservation.”

Section 3. Section 75-6-108, MCA, is amended to read:

“75-6-108. Department to prescribe fees – opportunity for appeal.

(1) The department shall by rule prescribe fees to be assessed annually on owners of public water supply systems to recover department costs in providing services under this part. The annual fee for a public water supply system is no more than \$2.25 for each service connection to the public water supply

system for the biennium beginning July 1, 1991, and ending June 30, 1993, and thereafter is no more than \$2 for each service connection to the public water supply system, although the minimum fee for any system is \$100, except that the fee for a transient noncommunity water system is \$50.

(2) Public water supply systems in a municipality may raise the rates to recover costs associated with the fees prescribed in this section without the public hearing required in 69-7-111.

(3) The department shall by rule prescribe fees assessed on persons who submit plans and specifications or development plans for construction, alteration, or extension of a public water supply system or public sewage system. The fees must be commensurate with the cost to the department of reviewing the plans and specifications.

(4) Fees collected pursuant to ~~this section~~ *subsection (1)* must be deposited in the public drinking water special revenue fund established in 75-6-115.

(5) Fees collected pursuant to subsection (3) must be deposited in the plan review special revenue account established in [section 1].

(5)(6) (a) The department shall notify the owner of a public water supply system in writing of the amount of the fee to be assessed and the basis for the assessment. The owner may appeal the fee assessment in writing to the board within 20 days after receipt of the written notice.

(b) An appeal must be based on the allegation that the fee is erroneous or excessive. An appeal may not be based only on the fee schedule adopted by the department.

(c) If any part of the fee assessment is not appealed, it must be paid to the department on receipt of the notice provided for in subsection (5)(a) (6)(a)."

Section 4. Section 75-6-115, MCA, is amended to read:

"75-6-115. Public drinking water special revenue fund. (1) There is a public drinking water special revenue fund within the state special revenue fund established in 17-2-102.

(2) There must be credited to the public drinking water special revenue fund the revenue from fees assessed, collected, and allocated pursuant to ~~75-6-108~~ *75-6-108(4)*. Funds from the public drinking water special revenue fund may be used only to pay department costs in implementing the public drinking water supply program, as described in this part."

Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 75, chapter 6, part 1, and the provisions of Title 75, chapter 6, part 1, apply to [section 1].

Section 6. Effective date. [This act] is effective July 1, 2025.

Approved May 5, 2025

CHAPTER NO. 419

[HB 47]

AN ACT GENERALLY REVISING THE STATE BUILDING ENERGY CONSERVATION ACT; REMOVING THE DEPARTMENT OF ENVIRONMENTAL QUALITY'S AUTHORITY TO ISSUE ENERGY CONSERVATION PROGRAM BONDS; ALLOWING THE DEPARTMENT TO SET AN ANNUAL INTEREST RATE FOR PROJECTS; REVISING DEFINITIONS; REVISING CERTAIN PROJECT REQUIREMENTS; AMENDING SECTIONS 90-4-602, 90-4-605, 90-4-606, 90-4-607, 90-4-613, 90-4-614, 90-4-615, 90-4-616, 90-4-617, AND 90-4-625, MCA; REPEALING SECTIONS 90-4-611 AND 90-4-612, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 90-4-602, MCA, is amended to read:

“90-4-602. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) ~~“Board” means the board of examiners provided for in 2-15-1007.~~

(2)(1) “Cost” includes the expenses related to planning, design, construction, and installation of energy conservation improvements and any administrative expenses of the department incurred in the performance of its duties under the energy conservation program.

(3)(2) “Department” means the department of environmental quality provided for in 2-15-3501.

(4)(3) “Energy conservation program” means a program for the financing, acquisition, construction, and installation of alternative energy systems, as defined in 15-32-102, or equipment, systems, and improvements in state-owned buildings, structures, and facilities that save ~~energy or water utility and associated operation and maintenance costs.~~

(5) ~~“Energy conservation program bonds” includes all series of bonds issued to finance any portion of the energy conservation program.~~

(6)(4) “Energy cost savings” means the savings in utility *and associated operation and maintenance costs* to a state agency as a result of an energy conservation program.

(7)(5) “Participating state agency” means, for a state-owned building, structure, or facility, the state agency that pays for the utilities for that building.

(8)(6) “State agency” means:

(a) each executive, legislative, or judicial branch department, office, or agency;

(b) the university system; and

(c) a community college district.”

Section 2. Section 90-4-605, MCA, is amended to read:

“90-4-605. Preparation of energy conservation program. (1) The department shall identify buildings *or building systems* that have a potential for energy savings, based on age, energy use, function, and condition of the building. ~~Upon~~ *On* request of the department, a state agency shall provide the department with information necessary to allow the department to comply with this requirement.

(2) Based on the criteria in subsection (1) and on the feasibility of leveraging other funds, such as federal and utility energy conservation program money, the department shall select certain facilities for ~~indepth~~ *in-depth* energy analyses to identify the technical and financial feasibility of making energy conservation improvements to the facilities.

(3) (a) ~~Upon~~ *On* completion of the energy analyses, the department shall identify estimated costs and savings to the state based on these analyses.

(b) The department shall notify the department of administration of each project for which: *the estimated savings are determined to be greater than the cost of the project, plus annual interest payments on the unpaid balance of the cost of the project.*

(i) ~~for projects to be funded with bond proceeds, the estimated savings are determined to be greater than the bond payment costs; and~~

(ii) ~~for projects to be funded from the general fund or the energy conservation capital projects account, the estimated savings are determined to be greater than the cost of the project plus annual interest payments of 3% of the unpaid balance of the cost of the project.~~

(c) ~~Upon~~ *On* receipt of the notification, the department of administration shall implement a design and construction project using ~~bond proceeds or~~ funds from the general fund or the energy conservation capital projects account established in 90-4-617 for the costs of the project.

(4) The department shall compile a report that must include the following:

(a) a listing of contacts between the department and other state agencies;

(b) a summary of the department's review of agency requests and a selection of projects for ~~indepth~~ *in-depth* analysis;

(c) a summary of the energy analyses conducted by the department, including the estimated cost of each proposed project and the estimated energy cost savings of each proposed project; and

(d) a listing of additional projects under consideration, for which energy analyses have not been conducted.

(5) The department shall submit the report required by subsection (4) to the governor before September 1 of each even-numbered year."

(6) *The department shall set the annual interest rate for projects funded by the energy conservation program by July 1 of each year. The annual interest rate may not exceed 3%. The department may set the annual interest rate to cover administrative costs of the program."*

Section 3. Section 90-4-606, MCA, is amended to read:

"90-4-606. Program report and recommendations. The governor shall submit the projects proposed to be funded by the energy conservation program for the next biennium as a part of the budget required by 17-7-123. The governor shall make available, as provided by 17-7-124:

(1) the report prepared by the department; and

(2) the proposed method of financing the improvement. ~~If energy conservation program bonds are proposed to be issued to finance the program improvements, the governor shall include within the report a written statement by the department that the estimated annual energy savings to be derived from the installation of the energy saving equipment or improvements, upon completion, are expected to equal or exceed the annual debt service to be paid on the energy conservation program bonds proposed to be issued to fund the costs of the equipment or improvements."~~

Section 4. Section 90-4-607, MCA, is amended to read:

"90-4-607. Duties of department. In addition to the duties set forth in 90-4-605, the department is authorized to:

(1) analyze state utility data to identify high-potential energy conservation projects;

(2) perform comprehensive energy analyses on state-owned buildings, structures, and facilities, contracting with private engineers when necessary; *and*

(3) transfer funds and authority to the department of administration *or other participating agencies* to:

(a) procure, design, and ~~construction of construct~~ cost-effective energy improvements; and

(b) ~~transfer funds and authority to other agencies to procure, design, and construct cost-effective energy improvements; and~~

(4) train facility maintenance staff in energy saving techniques and maintenance of energy improvements and monitor energy conservation projects to ensure that cost savings are realized ~~and are adequate to cover the debt service if bonds have been issued to fund the improvements."~~

Section 5. Section 90-4-613, MCA, is amended to read:

“90-4-613. Use Creation and use of energy conservation program account. (1) *There is created an energy conservation program account within the state special revenue fund established in 17-2-102.*

(2) The energy conservation program account must be segregated by the treasurer from all other money in that or any other fund in the state treasury and used only to pay costs of the energy conservation program. The department may transfer all money authorized by the legislature for its administrative expenditures from the energy conservation program account to a special revenue fund.”

Section 6. Section 90-4-614, MCA, is amended to read:

“90-4-614. Appropriation of energy cost savings. (1) In preparing the executive budget each biennium, the governor shall include for each state agency that is participating in the state energy conservation program using money from the ~~sale of energy conservation program bonds~~ *energy conservation program account provided for in 90-4-613*—an estimate of the energy cost savings expected for that agency in each year of the biennium.

(2) Each session, the legislature shall review the governor’s submission pursuant to 90-4-606 and subsection (1) of this section and appropriate in the general appropriations act authority for each participating state agency to transfer funds in an amount equal to the agency’s energy cost savings to the energy conservation program debt service account established in 90-4-625. ~~These transfers must be made for a period that is equal to the term of the bonds, plus 1 year.~~

(3) The current level utility appropriations of each state agency participating in the energy conservation program must be reduced by the amount appropriated in subsection (2).

(4) Each participating state agency shall transfer ~~upon~~ *on* request of the department the amount appropriated in accordance with subsection (2).”

Section 7. Section 90-4-615, MCA, is amended to read:

“90-4-615. Energy conservation repayment account. (1) There is an energy conservation repayment account in the state special revenue fund established in 17-2-102.

(2) There must be deposited in the energy conservation repayment account:

(a) the amount of energy costs saved as a result of energy conservation projects in state buildings, facilities, or structures using appropriations from the energy conservation capital projects account or the general fund for the energy conservation program;

(b) interest earned on the account;

(c) interest earned on the energy conservation capital projects account created in 90-4-617; and

(d) funds transferred to the account by the legislature.

(3) Money in the energy conservation repayment account is available to the department of environmental quality by appropriation to fund the costs of the energy conservation program for:

(a) conducting energy analysis;

(b) data collection and analysis;

(c) program administration and oversight; and

(d) *procurement, design, and construction costs for projects with energy cost savings considered not appropriate for funding through the repayment program; and*

~~(d)~~(e) monitoring the results of state building energy conservation projects.

(4) If the unencumbered funds in the account at the end of a biennium exceed \$2 million, the department shall transfer to the energy conservation capital projects account the amount of funds in excess of \$2 million.”

Section 8. Section 90-4-616, MCA, is amended to read:

“90-4-616. Transfer of energy savings from projects. (1) In preparing the executive budget each biennium, for each state agency participating in the energy conservation program by using appropriations from the general fund or the energy conservation capital projects account created in 90-4-617, the governor shall include an estimate of the energy cost savings expected for that agency in each year of the biennium.

(2) Each session, the legislature shall review the governor’s submission pursuant to 90-4-606 and subsection (1) of this section and, unless the legislature disapproves, shall include in the general appropriations act authority for each participating state agency to transfer funds in an amount equal to the agency’s estimated energy cost savings to the energy conservation repayment account established in 90-4-615. These transfers must continue until the cost of the project, including energy analysis, acquisition and installation costs of energy saving equipment or systems, and the cost of the construction of improvements in state buildings, facilities, or structures, plus annual interest payments of 3% *at a rate set pursuant to 90-4-605(6)* of the unpaid balance of the cost of the project, has been paid into the energy conservation repayment account.

(3) The current level utility appropriations of state agencies participating in the energy conservation program must be reduced by the sum of the amounts approved to be transferred pursuant to subsection (2).

(4) ~~Upon~~ *On* request of the department, each participating state agency shall transfer the amounts approved pursuant to subsection (2).”

Section 9. Section 90-4-617, MCA, is amended to read:

“90-4-617. Energy conservation capital projects account. (1) There is an energy conservation capital projects account in the capital projects fund type established in 17-2-102.

(2) There must be deposited in the account:

(a) money transferred from the energy conservation repayment account; and

(b) other amounts transferred to the account by the legislature.

(3) Money in the account is available to the department by appropriation and ~~must~~ *may* be used to pay the costs of the acquisition, installation, and construction of energy saving equipment, systems, or improvements in state buildings, facilities, or structures.”

Section 10. Section 90-4-625, MCA, is amended to read:

“90-4-625. Energy conservation program debt service account.

(1) There is an energy conservation program debt service account within the debt service fund type established in 17-2-102.

(2) ~~The department shall transfer to the major repair long-range building program account created in 17-7-221 money in the energy conservation debt service account that is in excess of the amount that may be needed to satisfy the principal and interest payments on the energy conservation program bonds.”~~

Section 11. Repealer. The following sections of the Montana Code Annotated are repealed:

90-4-611. Authority to issue energy conservation program bonds.

90-4-612. Form -- principal and interest -- fiscal agent -- deposit of proceeds.

Section 12. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 13. Effective date. [This act] is effective July 1, 2025.

Approved May 5, 2025

CHAPTER NO. 420

[HB 56]

AN ACT ESTABLISHING AN AMBULANCE PROVIDER ASSESSMENT FEE; ESTABLISHING PROCEDURES FOR COLLECTING AND DISTRIBUTING THE ASSESSMENT FEE; ALLOWING AUDITING OF AMBULANCE PROVIDER REPORTS AND PAYMENTS; ALLOWING FOR PENALTIES AND INTEREST; REQUIRING REVENUES GENERATED BY THE ASSESSMENT FEE TO BE USED FOR SUPPLEMENTING AMBULANCE PROVIDER MEDICAID PAYMENTS; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING A STATUTORY APPROPRIATION; PROVIDING APPROPRIATIONS FOR THE DEPARTMENT OF REVENUE TO IMPLEMENT AND ADMINISTER THE COLLECTION OF THE ASSESSMENT FEE; PROVIDING FOR REIMBURSEMENT TO THE GENERAL FUND FROM THE STATE SPECIAL REVENUE ACCOUNT; AMENDING SECTION 17-7-502, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING A CONTINGENT EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 13], the following definitions apply:

(1) “Air ambulance services” means ambulance services provided by aircraft as defined in 50-6-302.

(2) (a) “Ambulance provider” means a person licensed pursuant to 50-6-306.

(b) The term does not include:

(i) an entity that exclusively provides air ambulance services;

(ii) an entity operated by the United States, an Indian tribe, or any facility authorized under the Indian Health Care Improvement Act; or

(iii) a public ambulance provider.

(3) “Assessment fee” means the ambulance provider assessment fee as provided in [section 2].

(4) “Department” means the department of revenue provided for in 2-15-1301.

(5) “Emergency ambulance services” means any service delivered by an ambulance provider other than air ambulance services.

(6) (a) “Net operating revenue” means gross revenue collected by ambulance providers for the delivery of emergency ambulance services, minus amounts deducted for bad debt, charity care, and payer discounts.

(b) The term does not include nonpatient service-related revenue.

(7) “Public ambulance provider” means an ambulance provider that is incorporated under Title 7.

Section 2. Ambulance provider assessment fee. (1) Each ambulance provider shall pay to the department a uniform assessment fee of 5.75% of net operating revenues.

(2) After the administration costs of the department are deducted, the department shall deposit the remaining proceeds from collection of the assessment fee in the ambulance provider special revenue account provided for in [section 14].

Section 3. Relation to other taxes and fees. The assessment fee imposed under [section 2] is, in addition to any other taxes and fees, required to be paid by ambulance providers.

Section 4. Rulemaking authority. The department may adopt rules necessary to administer [sections 1 through 13].

Section 5. Reporting and collection of assessment fee. (1) On or before June 30 each year, an ambulance provider shall file with the department a report of its net operating revenue received during the previous calendar year. The report must be:

(a) in the form prescribed by the department; and

(b) accompanied by a payment in an amount equal to the assessment fee required to be paid under [section 2].

(2) Revenue received for all emergency ambulance services provided during the calendar year must be included in the calculation of the ambulance provider's net operating revenue regardless of the source of payment for the services rendered, including services covered under fee-for-service and managed care arrangements.

(3) In the case of a transfer of ownership, the successor in interest to the ambulance provider assumes the liability for the assessment fee.

Section 6. Audit – records. (1) The department may audit the records and other documents of an ambulance provider to ensure that the proper assessment fee has been collected.

(2) The department may require the ambulance provider to provide records and other documentation, including books, ledgers, and registers, necessary for the department to verify the proper amount of the assessment fee paid.

(3) An ambulance provider shall maintain and make available for inspection by the department sufficient records and other documentation to demonstrate how the ambulance provider's net operating revenue was calculated. The ambulance provider shall maintain the records for at least 5 years from the date the report is due.

Section 7. Periods of limitation. (1) Except as otherwise provided in this section, a deficiency may not be assessed or collected with respect to the year for which a report is filed unless the notice of additional fees proposed to be assessed is mailed within 5 years from the date the report was filed. For the purposes of this section, a report filed before the last day prescribed for filing is considered filed on the last day. If, before the expiration of the period prescribed for the assessment of the fees, the ambulance provider consents in writing to an assessment after the 5-year period, the fees may be assessed at any time prior to the expiration of the period agreed on.

(2) A refund or credit may not be paid or allowed with respect to the year for which a report is filed after 5 years from the last day prescribed for filing the report or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period, the ambulance provider files a claim or the department has determined the existence of the overpayment and has approved the refund or credit. If the ambulance provider has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period for filing a claim for a refund or credit or for allowing a refund or credit if no claim is filed, is automatically extended.

Section 8. Penalty and interest for delinquent fee. If an ambulance provider does not pay the required assessment fee on or before the due date of the report as provided in [section 5], penalty and interest, as provided in 15-1-216, must be added to the assessment fee.

Section 9. Estimated assessment fee on failure to file. For the purposes of ascertaining the correctness of any report, the department may:

(1) examine or cause to have examined by a designated agent or representative any books, papers, records, or memoranda bearing on the information required to be included in the report;

(2) require the attendance of any officer or employee of the ambulance provider making the report or the attendance of any other persons having relevant knowledge; and

(3) take testimony and require the production of any other material for its information.

Section 10. Deficiency assessment – penalty and interest – hearing. (1) (a) If the department determines that the amount of the assessment fee due is greater than the amount disclosed by the report, it shall mail the ambulance provider a notice of the additional fees proposed to be assessed. Within 30 days after the mailing of the notice, the ambulance provider may file with the department a written protest against the proposed additional fees stating the grounds on which the protest is based. The ambulance provider may request in its protest an oral hearing or an opportunity to present additional evidence relating to its fee liability.

(b) If a protest is not filed, the amount of the additional fees proposed to be assessed becomes final on the expiration of the 30-day period.

(c) If a protest is filed, the department shall reconsider the proposed assessment and, if the ambulance provider has requested, shall grant the provider an oral hearing. After consideration of the protest and the evidence presented at an oral hearing, the department's action on the protest is final when it mails notice of its action to the ambulance provider.

(2) When a deficiency is determined and the fees become final, the department shall mail a notice and demand to the ambulance provider for payment. Penalty and interest may be added to any deficiency assessment as provided in 15-1-216.

Section 11. Closing agreements. (1) The director of the department or a person authorized in writing by the director may enter into an agreement with an ambulance provider relating to the liability of the provider in respect to fees imposed by [sections 1 through 13].

(2) An agreement under this section is final and conclusive, and, except on a showing of fraud, malfeasance, or misrepresentation of a material fact:

(a) the case may not be reopened as to matters agreed on or the agreement modified by an officer, employee, or agent of this state; and

(b) in a suit, action, or proceeding under the agreement or a determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement, the agreement may not be annulled, modified, set aside, or disregarded.

Section 12. Credit for overpayment – interest on overpayment. (1) If the department determines that the amount of fees, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment must be credited against any fees, penalty, or interest then due from the ambulance provider and the balance must be refunded to the ambulance provider or its successor through reorganization, merger, or consolidation or to its shareholders on dissolution.

(2) Except as provided in subsection (3), interest is allowed on overpayments at the same rate as is charged on unpaid taxes, as provided in 15-1-216. Interest is due from the due date of the report or from the date of overpayment, whichever date is later, to the date the department approves refunding or crediting of the overpayment. Interest does not accrue during a period during which the processing of a claim for refund is delayed more than 30 days by reason of failure of the ambulance provider to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(3) Interest is not allowed:

(a) if the overpayment is refunded within 6 months from the date the report is due or from the date the return is filed, whichever is later; or

(b) if the amount of interest is less than \$1.

(4) A payment not made incident to a discharge of actual ambulance provider assessment fee liability or payment reasonably assumed to be imposed under [sections 1 through 13] is not considered an overpayment with respect to which interest is allowable.

Section 13. Warrant for distraint. If the assessment fee is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

Section 14. Ambulance medicaid reimbursement special revenue account -- statutory appropriation. (1) There is an ambulance medicaid reimbursement account in the state special revenue account provided for in 17-2-102 to the credit of the department of public health and human services.

(2) The account consists of:

(a) money from the assessment fee provided for in [section 2];

(b) any penalties and interest on penalties collected pursuant to [sections 1 through 13];

(c) other money authorized by the legislature to be credited to the account; and

(d) income earned on the account.

(3) Money in the account must be used by the department of public health and human services as follows:

(a) to first reimburse the general fund through a transfer from this account to the general fund for appropriations made to the department of revenue to implement, collect, and administer the ambulance provider assessment fee;

(b) to fund personal services for the department of revenue for implementing [this act]; and

(c) to provide funding no later than June 30 September 30 of each year for increases in medicaid payments to emergency ambulance services up to the average commercial rate for the service and for the cost of collection of the fees and other administrative activities associated with the implementation of increases in the medicaid payments to ambulance providers.

(4) Money remaining in the account at the end of a fiscal year may not be expended or transferred for any other purpose except as provided in subsection (3)(a).

(5) Money in the account is statutorily appropriated, as provided in 17-7-502, for the purposes provided for in this section.

Section 15. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-316; 10-3-802; 10-3-1304; 10-4-304; 10-4-310;

15-1-121; 15-1-142; 15-1-143; 15-1-218; 15-1-2302; 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-128; 15-70-131; 15-70-132; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-6-214; 17-7-133; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-3-369; 20-7-1709; 20-8-107; 20-9-250; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-4-1506; 44-12-213; 44-13-102; 50-1-115; 53-1-109; [section 14]; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-2-203; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and any costs or fees associated with issuing, paying, securing, redeeming, or defeasing all bonds, notes, or other obligations, as due in the ordinary course or when earlier called for redemption or defeased, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 1, 2, 3, Ch. 139, L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30, 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; pursuant to sec. 1, Ch. 20, L. 2023, sec. 2, Ch. 20, L. 2023, and sec. 3, Ch. 20, L. 2023, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2029; pursuant to sec. 9, Ch. 44, L. 2023, the inclusion of 15-1-142 terminates December 31, 2025; pursuant to sec. 10, Ch. 47, L. 2023, the inclusion of 15-1-2302 terminates June 30, 2025; pursuant to sec. 2, Ch. 374, L. 2023, the inclusion of 10-3-802 terminates June 30, 2031; pursuant to sec. 12, Ch. 558, L. 2023, the inclusion of 20-9-250 terminates December 31, 2029; pursuant to sec. 4, Ch. 621, L. 2023, the inclusion of

22-1-327 terminates July 1, 2029; pursuant to sec. 24, Ch. 722, L. 2023, the inclusion of 17-7-133 terminates June 30, 2027; pursuant to sec. 10, Ch. 758, L. 2023, the inclusion of 44-4-1506 terminates June 30, 2027; and pursuant to sec. 10, Ch. 764, L. 2023, the inclusion of 15-1-143 terminates December 31, 2025.)”

Section 16. Direction to department of revenue. The legislature directs the department of revenue to delay collection of the assessment fee provided for in [section 2] until the department of public health and human services notifies the department of revenue that the centers for medicare and medicaid services has approved the payments provided for in [section 14].

Section 17. Codification instruction. (1) [Sections 1 through 13] are intended to be codified as a new chapter in Title 15, and the provisions of Title 15 apply to [sections 1 through 13].

(2) [Section 14] is intended to be codified as an integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, part 1, apply to [section 14].

Section 18. Appropriations. (1) For the biennium beginning July 1, 2025, there is appropriated \$637,828 from the general fund to the department of revenue for start-up and operating costs to implement [this act].

(2) For the fiscal year beginning July 1, 2025, there is appropriated \$131,000 from the general fund to the department of revenue for personal services to implement [this act].

(3) For the fiscal year beginning July 1, 2026, there is appropriated \$131,000 from the general fund to the department of revenue for personal services to implement [this act].

(4) The legislature intends that the appropriations for personal services in this section be considered part of the ongoing base for the next legislative session to be paid from the ambulance medicaid reimbursement account established in [section 14].

Section 19. Contingent effective date. [This act] is effective on approval by the United States department of health and human services of all waivers and approvals necessary to implement the assessment fee and supplemental payments as provided in [sections 1 through 15]. The department of public health and human services shall notify the code commissioner within 15 days of the occurrence of the contingency.

Section 20. Contingent voidness. (1) [Sections 1 through 15] are void on the date that federal law or policy is amended so that the assessment fee collected pursuant to [sections 1 through 15] may not be considered as the state's share in claiming federal financial participation under the medicaid program. The department of public health and human services shall submit certification of the change in federal law or policy to the code commissioner within 15 days of the occurrence of the contingency.

(2) If [sections 1 through 15] are rendered void under the provisions of this section, all fees received or collected by the department of revenue prior to the date on which the act becomes void must be deposited in accordance with [section 2], and a person or party may not receive a refund of any fees received or collected by the department prior to the date on which [sections 1 through 15] become void.

(3) If the United States department of health and human services fails to approve the ambulance provider supplemental payments, [sections 1 through 15] are void. The department of public health and human services shall notify the code commissioner within 15 days of the occurrence of the contingency.

Section 21. Termination. [This act] terminates June 30, 2033.

Approved May 5, 2025

CHAPTER NO. 421

[HB 87]

AN ACT REVISING PROPERTY TAXATION PROCEDURES AND COUNTY REIMBURSEMENT FOR CERTAIN LANDS PURCHASED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; PROVIDING THAT THE LANDS ARE SUBJECT TO ASSESSMENT BY THE DEPARTMENT OF REVENUE IN THE SAME MANNER AS A PRIVATE CITIZEN; MAINTAINING EXISTING EXCEPTIONS; AMENDING SECTIONS 15-6-201 AND 87-1-603, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-6-201, MCA, is amended to read:

“15-6-201. Governmental, charitable, and educational categories – exempt property. (1) The following categories of property are exempt from taxation:

- (a) except as provided in 15-24-1203, the property of:
 - (i) the United States, except:
 - (A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or
 - (B) as provided in 15-24-1103;
 - (ii) (A) *except as provided in 87-1-603*, the state;;
(B) counties, cities, and towns;; and
(C) ~~and~~ school districts;
 - (iii) irrigation districts organized under the laws of Montana and not operated for gain or profit;
 - (iv) municipal corporations;
 - (v) public libraries;
 - (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;
 - (vii) special districts created pursuant to Title 7, chapter 11, part 10; and
 - (viii) subject to subsection (2), federally recognized Indian tribes in the state if the property is located entirely within the exterior boundaries of the reservation of the tribe that owns the property and the property is used exclusively by the tribe for essential government services. Essential government services are tribal government administration, fire, police, public health, education, recreation, sewer, water, pollution control, public transit, and public parks and recreational facilities.
- (b) buildings and furnishings in the buildings that are owned by a church and used for actual religious worship or for residences of the clergy, not to exceed one residence for each member of the clergy, together with the land that the buildings occupy and adjacent land reasonably necessary for convenient use of the buildings, which must be identified in the application, and all land and improvements used for educational or youth recreational activities if the facilities are generally available for use by the general public but may not exceed 15 acres for a church or 1 acre for a clergy residence after subtracting any area required by zoning, building codes, or subdivision requirements;
- (c) land and improvements ~~upon~~ *on* the land, not to exceed 15 acres, owned by a federally recognized Indian tribe when the land has been set aside by tribal resolution and designated as sacred land to be used exclusively for religious purposes;

(d) property owned and used exclusively for agricultural and horticultural societies not operated for gain or profit;

(e) property, not to exceed 80 acres, which must be legally described in the application for the exemption, used exclusively for educational purposes, including dormitories and food service buildings for the use of students in attendance and other structures necessary for the operation and maintenance of an educational institution that:

(i) is not operated for gain or profit;

(ii) has an attendance policy; and

(iii) has a definable curriculum with systematic instruction;

(f) property, of any acreage, owned by a tribal corporation created for the sole purpose of establishing schools, colleges, and universities if the property meets the requirements of subsection (1)(e);

(g) property used exclusively for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

(h) property that is:

(i) (A) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21; or

(B) owned by a federally recognized Indian tribe within the state and set aside by tribal resolution; **and**

(ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) not maintained and not operated for gain or profit;

(i) subject to subsection (2), property that is owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is directly used for purely public charitable purposes;

(j) evidence of debt secured by mortgages of record ~~upon~~ on real or personal property in the state of ~~Montana~~;

(k) public museums, art galleries, zoos, and observatories that are not operated for gain or profit;

(l) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(m) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(n) (i) property that is owned and used by a corporation or association organized and operated exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or mental impairments that constitute or result in substantial impediments to employment and that is not operated for gain or profit; and

(ii) subject to subsection (2)(e), property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;

(o) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate

gain or profit. For purposes of this subsection (1)(o), “nonprofit corporation” means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(p) property rented or leased to a municipality or taxing unit for less than \$100 a year and that is used for public park, recreation, or landscape beautification purposes. For the purposes of this subsection (1)(p), “property” includes land but does not include buildings. The exemption must be applied for by the municipality or taxing unit, and not more than 10 acres within the municipality or taxing unit may be exempted.

(2) (a) (i) For the purposes of tribal property under subsection (1)(a)(viii), the property subject to exemption may not be:

(A) operated for gain or profit;

(B) held under contract to operate, lease, or sell by a taxable individual;

(C) used or possessed exclusively by a taxable individual or entity; or

(D) held by a tribal corporation except for educational purposes as provided in subsection (1)(f).

(ii) For the purposes of parks and recreational facilities under subsection (1)(a)(viii), the property must be:

(A) set aside by tribal resolution and designated as park land, not to exceed 640 acres, or be designated as a recreational facility; and

(B) open to the general public.

(b) For the purposes of subsection (1)(b), the term “clergy” means, as recognized under the federal Internal Revenue Code:

(i) an ordained minister, priest, or rabbi;

(ii) a commissioned or licensed minister of a church or church denomination that ordains ministers if the person has the authority to perform substantially all the religious duties of the church or denomination;

(iii) a member of a religious order who has taken a vow of poverty; or

(iv) a Christian Science practitioner.

(c) For the purposes of subsection (1)(i):

(i) the term “institutions of purely public charity” includes any organization that meets the following requirements:

(A) The organization offers its charitable goods or services to persons without regard to race, religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.

(B) The organization accomplishes its activities through absolute gratuity or grants. However, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.

(ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually with the department a copy of its federal tax return reporting any unrelated business taxable income received by the charity during the tax year, together with a statement indicating whether the exempt property was used to generate any unrelated business taxable income.

(iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase even if the property must be improved before it can directly be used for its intended charitable purpose. If the property is not directly used for the charitable purpose within 8 years of receiving an exemption under this section or if the property is sold or transferred before it entered

direct charitable use, the exemption is revoked and the property is taxable. In addition to taxes due for the first year that the property becomes taxable, the owner of the property shall pay an amount equal to the amount of the tax due that year times the number of years that the property was tax-exempt under this section. The amount due is a lien upon the property and when collected must be distributed by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed. At the time the exemption is granted, the department shall file a notice with the clerk and recorder in the county in which the property is located. The notice must indicate that an exemption pursuant to this section has been granted. The notice must describe the penalty for default under this section and must specify that a default under this section will create a lien on the property by operation of law. The notice must be on a form prescribed by the department.

(iv) not more than 160 acres may be exempted by a purely public charity under any exemption originally applied for after December 31, 2004. An application for exemption under this section must contain a legal description of the property for which the exemption is requested.

(d) For the purposes of subsection (1)(k), the term “public museums, art galleries, zoos, and observatories” means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property owned by the public museum, art gallery, zoo, or observatory that is reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

(i) actually used by the governmental entity or nonprofit organization as a part of its public display;

(ii) held for future display; or

(iii) used to house or store a public display.

(e) For the purposes of facilities for the care of the retired, aged, or chronically ill under subsection (1)(n)(ii), the terms “retired” and “aged” mean an individual who satisfies the age and gross household income limitations of 15-30-2338. The property owner shall verify age and gross household income requirements on a form prescribed by the department. Applicants are subject to the false swearing penalties established in 45-7-202.”

Section 2. Section 87-1-603, MCA, is amended to read:

~~“87-1-603. Payments to counties for department-owned~~
Department-owned land subject to taxation – exceptions. (1) ~~Except as provided in subsection (3), All land owned by the department of fish, wildlife, and parks is subject to taxation and must be assessed by the department of revenue as before November 30 of each year, the treasurer of each county in which the department owns any land shall describe the land, state the number of acres in each parcel, and request the drawing of a warrant to the county in a sum equal to the amount of taxes that would be payable on county assessment of the property if it was were taxable to a private citizen, except:-~~ The director shall approve or disapprove the request. The director may disapprove a request only if the director finds it to be inconsistent with this section. If the director disapproves a request, the director shall return it with an explanation detailing the reasons for the disapproval to the appropriate county treasurer for correction. If the director approves a request, the director shall transmit it to the department of administration, which shall draw a warrant payable to the county in the amount shown on the request and shall send the warrant to

the county treasurer. The warrant is payable out of any funds to the credit of the department of fish, wildlife, and parks. A payment may not be made to a county in which

(a) the department owns department-owned land purchased before May 10, 2009, totaling less than 100 acres. A payment may not be made to in a county for; and

(b) lands owned by the department purchased before May 10, 2009, for game or bird farms or for fish hatchery purposes or lands acquired and managed for the purposes of Title 23, chapter 1.

(2) After May 10, 2009, for For every department purchase of land, the department shall notify the treasurer in the county where land was purchased.

(3) (a) After May 10, 2009, and before November 30 of each subsequent year, the treasurer of each county in which the department owns land purchased after May 10, 2009, shall describe the land, state the number of acres in each parcel, and request the drawing of a warrant to the county in a sum equal to the amount of taxes that would be payable on county assessment of the property if it was taxable to a private citizen.

(b) The director shall approve or disapprove the request. The director may disapprove a request only if the director finds it to be inconsistent with this subsection (3). If the director disapproves a request, the director shall return it with an explanation detailing the reasons for the disapproval to the appropriate county treasurer for correction. If the director approves a request, the director shall transmit it to the department of administration, which shall draw a warrant payable to the county in the amount shown on the request and shall send the warrant to the county treasurer. The warrant is payable out of any funds to the credit of the department of fish, wildlife, and parks.

(c) All land purchased by the department after May 10, 2009, is subject to this subsection (3).

(4)(3) The amount to be paid to each county pursuant to this section is statutorily appropriated, as provided in 17-7-502."

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to property tax years beginning after December 31, 2024.

Approved May 5, 2025

CHAPTER NO. 422

[HB 125]

AN ACT REVISING ELECTION JUDGE QUALIFICATIONS FOR SCHOOL DISTRICT ELECTIONS; ALLOWING QUALIFIED REGISTERED ELECTORS IN THE COUNTY WHERE THE ELECTION IS BEING HELD TO SERVE AS ELECTION JUDGES; AMENDING SECTION 20-20-109, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-20-109, MCA, is amended to read:

"20-20-109. Election judges -- qualifications -- training.

(1) Election(a) *Except as provided in subsection (1)(b), election judges must be qualified registered electors of the school district in which they serve.*

(b) If a county election administrator agrees to conduct an election pursuant to 20-20-417, election judges must be qualified registered electors in the county in which they serve.

(2) An election judge may not be:

(a) the candidate;

(b) an ascendant, descendant, brother, or sister of a candidate; or

(c) the spouse of the candidate or of any of the individuals listed in subsection (2)(b).

(3) School election judges must meet the training and certification requirements of 13-4-203.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 423

[HB 147]

AN ACT PROVIDING A DEFINITION OF ENFORCEMENT ACTION TO INCLUDE A TIME PERIOD AND OTHER REQUIREMENTS; AMENDING SECTION 70-17-210, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 70-17-210, MCA, is amended to read:

“**70-17-210. Covenant enforcement and abandonment.** (1) An association or any party to an interest in land subject to a covenant, condition, or restriction may initiate a legal action to enforce covenants, conditions, or restrictions.

(2) A parcel owner may assert a defense that a covenant, condition, or restriction has been abandoned for purposes of enforcement by offering evidence that no enforcement action has been undertaken for the prescribed period in 27-2-202. Once a covenant, condition, or restriction is abandoned by a court order or agreed to have been abandoned by the approval of the appropriate association, by recording a notice of abandonment or amendment in the office of the county clerk and recorder of the county where the development is situated, all persons are precluded from undertaking a different interpretation or enforcement action of the abandoned covenant, condition, or restriction against a similarly situated parcel owner in the same development.

(3) (a) Except as provided in subsection (3)(b), an association that has not met for a period of 15 years is prohibited from taking an enforcement action against a parcel owner whose use of the parcel is substantially similar to the nature and scope of the use of other parcels in the development.

(b) Covenants, conditions, and restrictions are still valid and enforceable under this subsection (3) if they are otherwise necessary:

(i) to comply with applicable federal, state, and local laws, ordinances, and regulations;

(ii) for an easement or right-of-way;

(iii) for the maintenance of infrastructure or improvements in the development;

(iv) to comply with a court order or the approval provided by a government on the establishment of the covenants, conditions, and restrictions;

(v) for the installation, maintenance, or removal of utilities; or

(vi) to abate a nuisance.

(4) For the purposes of this section and as it pertains to a parcel owner's defense, "enforcement action" related to a covenant means that the covenant was equally and consistently enforced under whatever method an association uses to enforce covenants on all properties subject to the covenant over at least a 2-year period."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 424

[HB 156]

AN ACT GENERALLY REVISING SCHOOL FUNDING LAWS; ENHANCING SCHOOL FUNDING EQUALIZATION BY REPLACING THE GUARANTEED-TAX-BASE-AID-SUPPORTED SCHOOL DISTRICT BASE LEVY WITH A GUARANTEED-TAX-BASE-AID-SUPPORTED COUNTYWIDE LEVY TO SUPPORT THE BASE BUDGETS OF SCHOOL DISTRICTS; REDUCING REQUIRED TUITION PAYMENTS TO REFLECT THE COUNTYWIDE LEVY; REVISING THE USE OF VARIOUS FORMS OF NONLEVY REVENUE IN RELATION TO SCHOOL DISTRICT GENERAL FUND BUDGETS; REPLACING DISTRICT GUARANTEED TAX BASE AID WITH COUNTY GUARANTEED TAX BASE AID IN SUPPORT OF THE NEW COUNTYWIDE LEVY; REVISING GUARANTEED TAX BASE AID LAWS; REVISING THE DUTIES OF TRUSTEES, DISTRICT CLERKS, COUNTY SUPERINTENDENTS, AND COUNTY TREASURERS AS RELATED TO THE NEW COUNTYWIDE LEVY; AMENDING SECTIONS 7-15-4291, 15-1-402, 20-3-209, 20-3-324, 20-5-323, 20-5-324, 20-6-702, 20-9-101, 20-9-104, 20-9-131, 20-9-141, 20-9-212, 20-9-235, 20-9-306, 20-9-308, 20-9-310, 20-9-336, 20-9-366, 20-9-367, 20-9-368, 20-9-369, AND 20-9-515, MCA; REPEALING SECTION 15-1-409, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-15-4291, MCA, is amended to read:

"7-15-4291. Voluntary agreement to remit unused portion of urban renewal district tax increments. (1) Subject to subsections (2) through (5), a local government with an urban renewal district containing a tax increment provision may enter into an agreement to remit any portion of the annual tax increment not currently required for the payment of the costs listed in 7-15-4288 or pledged to the payment of the principal of premiums, if any, and interest on the bonds referred to in 7-15-4289. The remittance agreement must:

(a) provide for remittance to each taxing jurisdiction for which the mill rates are included in the calculation of the tax increment as provided in 7-15-4286(1) and (2); and

(b) require that the remittance be proportional to the taxing jurisdiction's share of the total mills levied.

(2) Any portion of the increment remitted to a school district pursuant to 7-15-4286(3) or this section:

(a) must be used to reduce property taxes or designated as operating reserve pursuant to 20-9-104 for the fiscal year following the fiscal year in which the remittance was received;

(b) must be deposited in one or more of the following funds that has a mill levy for the current school year, subject to the provisions of Title 20 and this section:

- (i) general fund;
- (ii) bus depreciation reserve fund;
- (iii) debt service fund;
- (iv) building reserve fund;
- (v) technology acquisition and depreciation fund; and
- (c) may not be transferred to any fund.

(3) The remittance will not reduce the levy authority of the school district receiving the remittance in years subsequent to the time period established by subsection (2)(a).

(4) Any portion of the increment remitted to a school district and deposited into the general fund must be designated as operating reserve pursuant to 20-9-104 or used to reduce the BASE budget levy or the over-BASE budget levy in the following fiscal year.

(5) If a school district does not utilize the remitted portion to reduce property taxes or designate the remittance as operating reserve within the time period established by subsection (2)(a), the unused portion must be remitted as follows:

(a) if the area or district is in existence at the time of the remittance, the portion is distributed to the special fund in 7-15-4286(2)(a) and used as provided in 7-15-4282 through 7-15-4294; or

(b) if the area or district is not in existence at the time of the remittance, the portion is distributed pursuant to 7-15-4292(2)(a)."

Section 2. Section 15-1-402, MCA, is amended to read:

"15-1-402. Payment of property taxes or fees under protest. (1) (a) The person upon whom a property tax or fee is being imposed under this title may, before the property tax or fee becomes delinquent, pay under written protest that portion of the property tax or fee protested.

(b) The protested payment must:

- (i) be made to the officer designated and authorized to collect it;
- (ii) specify the grounds of protest; and
- (iii) not exceed the difference between the payment for the immediately preceding tax year and the amount owing in the tax year protested unless a different amount results from the specified grounds of protest, which may include but are not limited to changes in assessment due to reappraisal under 15-7-111.

(c) If the protested property tax or fee is on property that is subject to central assessment pursuant to 15-23-101, the person shall report to the department the grounds of the protest and the amount of the protested payment for each county in which a protested payment was made.

(2) A person appealing a property tax or fee pursuant to Title 15, chapter 2 or 15, including a person appealing a property tax or fee on property that is annually assessed by the department or subject to central assessment pursuant to 15-23-101, shall pay the tax or fee under protest when due in order to receive a refund. If the tax or fee is not paid under protest when due, the appeal or mediation may continue but a tax or fee may not be refunded as a result of the appeal or mediation.

(3) If a protested property tax or fee is payable in installments, a subsequent installment portion considered unlawful by the Montana tax appeal board need not be paid and an action or suit need not be commenced to recover the subsequent installment. The determination of the action or suit commenced to recover the first installment portion paid under protest determines the

right of the party paying the subsequent installment to have it or any part of it refunded to the party or the right of the taxing authority to collect a subsequent installment not paid by the taxpayer plus interest from the date the subsequent installment was due.

(4) (a) Except as provided in subsection (4)(b), all property taxes and fees paid under protest to a county or municipality must be deposited by the treasurer of the county or municipality to the credit of a special fund to be designated as a protest fund and must be retained in the protest fund until the final determination of any action or suit to recover the taxes and fees unless they are released at the request of the county, municipality, or other local taxing jurisdiction pursuant to subsection (5). This section does not prohibit the investment of the money of this fund in the state unified investment program or in any manner provided in Title 7, chapter 6. The provision creating the special protest fund does not apply to any payments made under protest directly to the state.

(b) (i) Property taxes that are levied by the state against property that is centrally assessed pursuant to 15-23-101 ~~and any protested taxes on industrial property that is annually assessed by the department in a school district that has elected to waive its right to protested taxes in a specific year pursuant to 15-1-409~~ must be remitted by the county treasurer to the department for deposit as provided in subsections (4)(b)(ii) through ~~(4)(b)(iv)~~ (4)(b)(iii).

(ii) The department shall deposit 50% of that portion of the funds levied for the university system pursuant to 15-10-109 in the state special revenue fund to the credit of the university system, and the other 50% of the funds levied pursuant to 15-10-109 must be deposited in a centrally assessed property tax state special revenue fund.

(iii) Fifty percent of the funds remaining after the deposit of university system funds must be deposited in the state general fund, and the other 50% must be deposited in a centrally assessed property tax state special revenue fund.

~~(iv) Fifty percent of the funds from a school district that has waived its right to protested taxes must be deposited in the state general fund, and the other 50% must be deposited in a school district property tax protest state special revenue fund.~~

(5) (a) Except as provided in ~~subsections (5)(b) and (5)(c)~~ subsection (5)(b), the governing body of a taxing jurisdiction affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except the first-year protest amount.

(b) The governing body of a taxing jurisdiction affected by the payment of taxes under protest on property that is centrally assessed pursuant to 15-23-101 or on industrial property that is assessed annually by the department in the first and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled. The decision in a previous year of a taxing jurisdiction to leave protested taxes of centrally assessed property in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled.

(c) ~~The provisions of subsection (5)(b) do not apply to a school district that has elected to waive its right to its portion of protested taxes on centrally assessed property and on industrial property that is assessed annually by the department for that specific year as provided in 15-1-409.~~

(6) (a) If action before the county tax appeal board, Montana tax appeal board, or district court is not commenced within the time specified or if the action is commenced and finally determined in favor of the department of revenue, county, municipality, or treasurer of the county or the municipality, the amount of the protested portions of the property tax or fee must be taken from the protest fund or the centrally assessed property tax state special revenue fund and deposited to the credit of the fund or funds to which the property tax belongs, less a pro rata deduction for the costs of administration of the protest fund and related expenses charged to the local government units.

(b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then the treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or fee that the person holding the judgment is entitled to recover, together with interest from the date of payment under protest. ~~The department shall refund from the school district property tax protest state special revenue fund the protested portions of property taxes and interest to a taxpayer in a school district in which the school district has elected to waive its right to its portion of protested taxes for that specific year as provided in 15-1-409. If the amount available for the refund in the school district property tax protest state special revenue fund is insufficient to refund the property tax payments, the department shall pay the remainder of the refund from the state general fund.~~

(ii) The taxing jurisdiction shall pay interest at the rate of interest earned by the pooled investment fund provided for in 17-6-203 for the applicable period.

(c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the treasurer shall apply the available amount first to tax repayment, then to interest owed, and lastly to costs.

(d) (i) (A) If, after a final determination by the Montana tax appeal board or a court or after settlement of an appeal, the final assessed value of a property that is centrally assessed under 15-23-101 or an industrial property that is annually assessed by the department is less than 75% of the department's original assessed value, the governing body may demand that the state refund from the general fund the protested taxes equivalent to the difference between the final determined assessed value and 75% of the original assessed value.

~~(B) For industrial property under subsection (6)(d)(i)(A) in which the school district has elected to waive its right to its portion of protested taxes for that specific year, the department shall refund from the school district property tax protest state special revenue fund the protested portions of property taxes and interest to a taxpayer.~~

~~(C)(B) The provisions of subsection (6)(d)(i)(A) do not apply to protested taxes for which the taxpayer protests the classification of the property.~~

(ii) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the treasurer that portion of the taxpayer refund, including tax

payments and costs, for which the taxing jurisdiction is proratably responsible. The treasurer is not responsible for the amount required to be refunded by the state treasurer as provided in subsection (6)(b).

(iii) For an adverse protest action against the state for centrally assessed property, the department shall refund from the centrally assessed property tax state special revenue fund the amount of protested taxes and from the state general fund the amount of interest as required in subsection (6)(b). The amount refunded for an adverse protested action from the centrally assessed property tax state special revenue fund may not exceed the amount of protested taxes or fees required to be deposited for that action pursuant to subsections (4)(b)(ii) and (4)(b)(iii). If the amount available for the adverse protested action in the centrally assessed property tax state special revenue fund is insufficient to refund the tax payments to which the taxpayer is entitled and for which the state is responsible, the department shall pay the remainder of the refund proportionally from the state general fund and from money deposited in the state special revenue fund levied pursuant to 15-10-109.

(e) In satisfying the requirements of subsection (6)(d), the taxing jurisdiction, including the state, is allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The taxpayer is entitled to interest on the unpaid balance at the rate referred to in subsection (6)(b) from the date of payment under protest until the date of final resolution of the protest and at the combined rate of the federal reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final resolution, plus 4 percentage points, from the date of final resolution of the protest until refund is made.

(7) A taxing jurisdiction, except the state, may satisfy the requirements of this section by use of funds from one or more of the following sources:

(a) imposition of a property tax to be collected by a special tax protest refund levy;

(b) the general fund or any other funds legally available to the governing body; and

(c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or school district is authorized to issue the bonds pursuant to procedures established by law. The bonds may be issued without being submitted to an election. Property taxes may be levied to amortize the bonds.

(8) If the department revises an assessment that results in a refund of taxes of \$5 or less, a refund is not owed."

Section 3. Section 20-3-209, MCA, is amended to read:

"20-3-209. Annual report. The county superintendent of each county shall submit an annual report to the superintendent of public instruction on or before September 15. The report must be completed on the forms supplied by the superintendent of public instruction and must include:

(1) the final budget information for each district of the county, as prescribed by 20-9-134(1);

(2) the revenue amounts used to establish the levy requirements for:

(a) *the county school funds for supporting school district BASE budgets, as prescribed by [section 23];*

(b) the county school fund supporting school district transportation schedules, as prescribed by 20-10-146;; and

(c) ~~for~~ the county school funds supporting elementary and high school district retirement obligations, as prescribed by 20-9-501;

(3) the financial activities of each district of the county for the immediately preceding school fiscal year as provided by the trustees' annual report to the county superintendent under the provisions of 20-9-213(6); and

(4) any other information that may be requested by the superintendent of public instruction that is within the superintendent's authority prescribed by this title."

Section 4. Section 20-3-324, MCA, is amended to read:

"20-3-324. Powers and duties. As prescribed elsewhere in this title, the trustees of a district shall exercise supervision and control of the schools of the district in providing its educational program pursuant to Article X, section 8, of the Montana constitution, and shall:

(1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the district superintendent, the county high school principal, or other principal as the board considers necessary, accepting or rejecting any recommendation as the trustees in their sole discretion determine, in accordance with the provisions of Title 20, chapter 4;

(2) employ and dismiss administrative personnel, clerks, secretaries, teacher's aides, custodians, maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel considered necessary to carry out the various services of the district;

(3) administer the attendance and tuition provisions and govern the pupils of the district in accordance with the provisions of the pupils chapter of this title;

(4) call, conduct, and certify the elections of the district in accordance with the provisions of the school elections chapter of this title;

(5) participate in the teachers' retirement system of the state of Montana in accordance with the provisions of the teachers' retirement system chapter of Title 19;

(6) participate in district boundary change actions in accordance with the provisions of the school districts chapter of this title;

(7) organize, open, close, or acquire isolation status for the schools of the district in accordance with the provisions of the school organization part of this title;

(8) adopt and administer the annual budget or a budget amendment of the district in accordance with the provisions of the school budget system part of this title;

(9) conduct the fiscal business of the district in accordance with the provisions of the school financial administration part of this title;

(10) establish the ANB, BASE budget ~~levy~~ *revenue requirement*, over-BASE budget levy, and operating reserve amounts for the general fund of the district in accordance with the provisions of the general fund part of this title;

(11) establish, maintain, budget, and finance the transportation program of the district in accordance with the provisions of the transportation parts of this title;

(12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions of the bonds parts of this title;

(13) when applicable, establish, financially administer, and budget for the tuition fund, retirement fund, building reserve fund, adult education fund, nonoperating fund, school food services fund, miscellaneous programs fund, building fund, lease or rental agreement fund, traffic education fund, impact aid fund, interlocal cooperative fund, and other funds as authorized by the state superintendent of public instruction in accordance with the provisions of the other school funds parts of this title;

(14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises in accordance with the provisions of the miscellaneous financial parts of this title;

(15) hold in trust, acquire, and dispose of the real and personal property of the district in accordance with the provisions of the school sites and facilities part of this title;

(16) operate the schools of the district in accordance with the provisions of the school calendar part of this title;

(17) set the length of the school term, school day, and school week in accordance with 20-1-302;

(18) establish and maintain the educational program of the schools of the district in accordance with the provisions of the instructional services, textbooks, K-12 career and vocational/technical education, and special education parts of this title. In undertaking its duties related to the district's educational program, the board of trustees may:

(a) waive any specific course requirement otherwise required for graduation based on individual student needs and performance levels, age, maturity, interest, and aspirations of the pupil, in consultation with the pupil's parents or guardians; and

(b) provide credit for a course satisfactorily completed in a period of time shorter or longer than normally required as set forth in 20-9-311(4)(d) or through content proficiency gained through alternative means. Examples of alternative means by which content proficiency may be achieved include but are not limited to correspondence, extension, and distance learning courses, adult education, summer school, work study, work-based learning partnerships, and other experiential learning opportunities, custom-designed courses, and challenges to current courses. Montana schools shall accept units of credit taken with the approval of the accredited Montana school in which the student was then enrolled and which appear on the student's official school transcript.

(19) establish and maintain the school food services of the district in accordance with the provisions of the school food services parts of this title;

(20) make reports from time to time as the county superintendent, superintendent of public instruction, and board of public education may require;

(21) retain, when considered advisable, a physician or registered nurse to inspect the sanitary conditions of the school or the general health conditions of each pupil and, upon request, make available to any parent or guardian any medical reports or health records maintained by the district pertaining to the child;

(22) for each member of the trustees, visit each school of the district not less than once each school fiscal year to examine its management, conditions, and needs, except that trustees from a first-class school district may share the responsibility for visiting each school in the district;

(23) procure and display outside daily in suitable weather on school days at each school of the district an American flag representing the United States and manufactured in the United States that measures not less than 3 feet by 5 feet;

(24) provide that an American flag representing the United States and manufactured in the United States that measures at least 16 inches by 24 inches be prominently displayed in each classroom in each school of the district no later than the beginning of the school year, except in a classroom in which the flag may get soiled. Districts are encouraged to work with military organizations and civic groups to acquire flags through donation, and this requirement is waived if the flags are not provided by a military organization or civic group.

(25) for grades 7 through 12, provide that legible copies of the United States constitution, the United States bill of rights, and the Montana constitution printed in the United States or in electronic form are readily available in every classroom no later than the beginning of the school year. Districts are encouraged to work with civic groups to acquire the documents through donation, and this requirement is waived if the documents are not provided by a civic group.

(26) adopt and administer a district policy on assessment for placement of any child who enrolls in a school of the district from a nonpublic school that is not accredited, as required in 20-5-110;

(27) upon request and in compliance with confidentiality requirements of state and federal law, disclose to interested parties school district student assessment data for any test required by the board of public education;

(28) consider and may enter into an interlocal agreement with a postsecondary institution, as defined in 20-9-706, that authorizes 11th and 12th grade students to obtain credits through classes available only at a postsecondary institution;

(29) approve or disapprove the conduct of school on a Saturday in accordance with the provisions of 20-1-303; and

(30) perform any other duty and enforce any other requirements for the governance of the schools pursuant to the constitutional power of supervision and control of schools vested in elected school boards pursuant to Article X, section 8, of the Montana constitution as prescribed by this title, the policies of the board of public education, or the rules of the superintendent of public instruction.”

Section 5. Section 20-5-323, MCA, is amended to read:

“20-5-323. Tuition and transportation – rates. (1) Except as provided in subsections (2) through (5), whenever a child enrolls in and attends a school outside of the child’s district of residence under the provisions of 20-5-320 or 20-5-321, the district of residence shall pay the district of attendance a percentage equal to the lesser of the percentage of either school district’s adopted general fund budget funded by ~~BASE and~~ over-BASE property tax levies in the year of attendance not to exceed ~~35.3%~~ 20% of the tuition per-ANB amount for the year of attendance as described in 20-5-324.

(2) Except for the tuition paid by the district of residence under 20-5-324(2)(b), the tuition for a child with a disability must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for special education pupils. The rules must provide:

(a) that tuition amounts must be reduced by the funding generated by the district of attendance due to the child’s attendance; and

(b) an option for tuition set at the actual unique costs of providing a free appropriate public education.

(3) The state-paid tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) in addition to the tuition paid by the district of residence under 20-5-324(2)(b) for a student without disabilities who requires a program with costs that exceed the average district costs must be determined as the actual individual costs of providing that program according to the following:

(a) the district of attendance and the district or entity responsible for the tuition payments shall approve an agreement for the tuition cost;

(b) for a Montana resident student, 120% of the tuition per-ANB amount, received in the year for which the tuition charges are calculated, must be subtracted from the per-student program costs for a Montana resident student; and

(c) the maximum tuition rate paid to a district under this subsection (3) may not exceed \$2,500 per student.

(4) When a child attends a public school of another state or province, the amount of daily tuition may not be greater than the average annual cost for each student in the child's district of residence. This calculation for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal year. For the purposes of this subsection, the following do not apply:

(a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;

(b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;

(c) an order issued under Title 40, chapter 4, part 2; or

(d) out-of-state placement by a state agency.

(5) When a child is placed by a state agency in an out-of-state residential facility, the state agency making the placement is responsible for the education costs resulting from the placement.

(6) The amount, if any, charged for transportation may not exceed the lesser of the average transportation cost for each student in the child's district of residence or 35 cents a mile. The average expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year.

(7) As used in this section, "tuition per-ANB amount" means the applicable per-ANB maximum rate established in 20-9-306, plus the per-ANB amounts of the instructional block grant and related services block grant under 20-9-321."

Section 6. Section 20-5-324, MCA, is amended to read:

"20-5-324. Tuition payment provisions – state obligations – district obligations – financing – reporting. (1) In order to be eligible to receive state reimbursement or payment under subsection (2)(a), the trustees of a district shall report to the superintendent of public instruction by June 30 the following information for the concluding school fiscal year:

(a) the name and district of residence of each child who attended a school of the district under a mandatory out-of-district attendance agreement approved under the provisions of 20-5-321(1)(d) or (1)(e);

(b) the number of days of enrollment for each child reported under the provisions of subsection (1)(a);

(c) the annual tuition rate for each child's tuition payment, as determined under the provisions of 20-5-323, and the tuition cost for each child reported under the provisions of subsection (1)(a);

(d) the names, districts of attendance, and amount of tuition paid by the district for resident students attending public schools out of state; and

(e) the names, schools of attendance, and amount of tuition to be paid by the district for resident students attending day-treatment programs under approved individualized education programs at private, nonsectarian schools.

(2) (a) Subject to the limitations of 20-5-323, the superintendent of public instruction shall:

(i) except as provided in subsection (2)(b) of this section, pay the district of attendance the amount of the tuition obligation reported under subsection (1)(c) of this section, prorated for the actual days of enrollment;

(ii) determine the total per-ANB entitlement for which the district of residence would have been eligible if the students reported in subsections

(1)(d) and (1)(e) of this section had been enrolled in the resident district in the prior year; and

(iii) reimburse the district of residence for the state portion of the per-ANB entitlement for each student reported in subsections (1)(d) and (1)(e) of this section, not to exceed the district's actual payment of tuition or fees for service for the student in the previous year.

(b) The district of residence for each child reported under the provisions of subsection (1)(a) of this section shall pay the district of attendance the tuition rate under 20-5-323(1) prorated for the actual days of enrollment. The superintendent of public instruction is only responsible for any additional tuition amount pursuant to 20-5-323(2) and (3).

(3) Whenever a child enrolls in and attends a school outside of the child's district of residence under the provisions of 20-5-320 or 20-5-321, by July 15 following the year of attendance, the district of attendance shall notify the district of residence of an obligation under 20-5-323.

(4) (a) (i) When a child attends a school outside the child's district of residence at the resident district's expense under the provisions of 20-5-320 or 20-5-321 or when a child has approval to attend a day-treatment program under an approved individualized education program at a private, nonsectarian school located in or outside of the child's district of residence, the district of residence shall finance any tuition amount required under 20-5-323 from the levy authorized to support the district tuition fund or from the district's general fund or any other legally available fund in the discretion of the trustees and any transportation amount from the levy authorized to support the transportation fund or from the district's general fund or any other legally available fund in the discretion of the trustees.

(ii) By December 31 of the school fiscal year following the year of attendance, the district of residence shall pay at least one-half of any tuition and transportation obligation established under subsection (4)(a)(i). The remaining tuition and transportation obligation must be paid by June 15 of the school fiscal year following the year of attendance.

(iii) In addition to use of a tuition levy to pay tuition for out-of-district attendance of a resident pupil, a school district may also include in its tuition levy an amount necessary to pay for the full costs of providing a free appropriate public education, as defined in 20-7-401, in the district to any child with a disability who lives in the district. The amount of the levy imposed for the costs associated with educating each child with a disability under this subsection (4)(a)(iii) is limited to the actual cost of service under the child's individualized education program minus:

(A) the student's state special education payment;

(B) the student's federal special education payment;

(C) the student's per-ANB amount;

(D) the prorated portion of the district's basic entitlement for each qualifying student; and

(E) the prorated portion of the district's general fund payments in 20-9-327 through 20-9-330 for each qualifying student.

(b) When a child has approval to attend a school outside the child's district of residence because of a parent's or guardian's request under the provisions of 20-5-320 or 20-5-321(1)(c), the parent or guardian of the child is responsible for transportation unless otherwise agreed to in the out-of-district attendance agreement.

(5) (a) Except as provided in subsection (5)(b), the district of attendance shall anticipate and credit tuition receipts to the district general fund, ~~to reduce the general fund net levy requirement first to the BASE budget and any remaining~~

~~to the over-BASE budget pursuant to 20-9-141; and transportation receipts to the transportation fund. In order to provide local property tax reduction for the tuition amount received under 20-5-323(1), the amount of the reduction in the BASE budget mills levied as a result of anticipated tuition payments must be calculated as a final step in computing the district's general fund net BASE levy requirement pursuant to the procedure set forth in 20-9-141(2) and the district's guaranteed tax base aid must be calculated prior to the reduction in BASE mills.~~

(b) Any tuition receipts received for a pupil who is a child with a disability under 20-5-323(2) or for a student without disabilities who requires a program with costs that exceed the average district costs under 20-5-323(3) that exceed the tuition amount received for a pupil without disabilities must be deposited in the district miscellaneous programs fund and must be used in the manner provided for in 20-9-507 to support the costs of the program for which the tuition was received.

(6) The reimbursements paid under subsection (2)(a)(iii) must be deposited into the district tuition fund and must be used by the district to pay obligations for resident students attending public schools out of state or for resident students attending day-treatment programs under approved individualized education programs at private, nonsectarian schools at district expense.

(7) The provisions of this section do not apply to out-of-state placements made by a state agency pursuant to 20-7-422.

(8) In accordance with 5-11-210, the superintendent of public instruction shall report annually to the education interim committee on out-of-district attendance under 20-5-320 through 20-5-324 in the prior school fiscal year. The report must include the following for each school district:

(a) the total enrollment of the district;

(b) the number of nonresident students served by the district under out-of-district attendance agreements; and

(c) the number of resident students served by other school districts under out-of-district attendance agreements.”

Section 7. Section 20-6-702, MCA, is amended to read:

“20-6-702. Funding for K-12 school districts. (1) Notwithstanding the provisions of subsections (2) through (6), a K-12 school district formed under the provisions of 20-6-701 is subject to the provisions of law for high school districts.

(2) The number of elected trustees of the K-12 school district must be based on the classification of the attached elementary district under the provisions of 20-3-341 and 20-3-351.

(3) Calculations for the following must be made separately for the elementary school program and the high school program of a K-12 school district:

(a) the calculation of ANB for purposes of determining the total per-ANB entitlements must be in accordance with the provisions of 20-9-311;

(b) the basic county tax for elementary equalization and revenue for the elementary BASE funding program for the district must be determined in accordance with the provisions of 20-9-331, and the basic county tax for high school equalization and revenue for the high school BASE funding program for the district must be determined in accordance with 20-9-333;

(c) ~~the guaranteed tax base aid for BASE funding program purposes~~ *BASE budget revenue requirements* for a K-12 school district must be calculated separately, ~~using each district's guaranteed tax base ratio, as defined in 20-9-366. The BASE budget levy to be levied~~ *budget revenue requirements* for the K-12 school district must be prorated based on the ratio of the BASE

funding program amounts for elementary school programs to the BASE funding program amounts for high school programs.

(d) the levy authority limits under 20-9-502(3) and the corresponding state school major maintenance aid under 20-9-525(3) for a K-12 school district must be calculated separately for the K-12 school district's elementary and high school programs in the same manner as those limits and aid would be calculated if the K-12 school district consisted of a separate elementary and high school district.

(4) The retirement obligation and eligibility for retirement guaranteed tax base aid for a K-12 school district must be calculated and funded as a high school district retirement obligation under the provisions of 20-9-501.

(5) For the purposes of budgeting for a K-12 school district, the trustees shall adopt a single fund for any of the budgeted or nonbudgeted funds described in 20-9-201 for the costs of operating all grades and programs of the district.

(6) Tuition for attendance in the K-12 school district must be determined separately for high school pupils and for elementary pupils under the provisions of 20-5-320 through 20-5-324, except that the actual expenditures used for calculations in 20-5-323 must be based on an amount prorated between the elementary and high school programs in the appropriate funds of each district in the year prior to the attachment of the districts."

Section 8. Section 20-9-101, MCA, is amended to read:

"20-9-101. Application of budget system for districts and counties.

The school budgeting procedure and provisions of this title apply to elementary and high school districts, to county funds supporting school district *BASE budgets*, transportation, and retirement obligations, and, whenever specified, to community college districts and to all funds requiring the adoption of a budget. Each district shall separately propose and adopt a budget in accordance with the requirements of this title."

Section 9. Section 20-9-104, MCA, is amended to read:

"20-9-104. General fund operating reserve. (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (6) and (7), the amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund budget for the ensuing school fiscal year.

(2) The amount held as operating reserve may not be used for property tax reduction in the manner permitted by 20-9-141(1)(b) for other receipts.

(3) Excess reserves as provided in subsection (6) may be appropriated to reduce ~~the BASE budget levy or the over-BASE budget levy.~~

(4) Except as provided in subsection (9), any portion of the general fund end-of-the-year fund balance, including any portion attributable to a tax increment remitted under 7-15-4286(3) or 7-15-4291, that is not reserved under subsection (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for property tax reduction as provided in 20-9-141(1)(b) up to an amount not exceeding 15% of a school district's maximum general fund budget.

(5) Except as provided in subsection (9), any unreserved fund balance in excess of 15% of a school district's maximum general fund budget must be remitted to the state and allocated as follows:

(a) 70% of the excess amount must be remitted to the state to be deposited in the guarantee account provided for in 20-9-622; and

(b) 30% of the excess amount must be remitted to the school facility and technology account.

(6) The limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than the unused balance of any amount:

(a) received in settlement of tax payments protested in a prior school fiscal year;

(b) received in taxes from a prior school fiscal year as a result of a tax audit by the department of revenue or its agents; or

(c) received in delinquent taxes from a prior school fiscal year.

(7) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is \$10,000 or less.

(8) Any amounts remitted to the state under subsection (5) are not considered expenditures to be applied against budget authority.

(9) Any portion of a tax increment remitted under 7-15-4286(3) or 7-15-4291 and deposited in the district's general fund is not subject to the:

(a) 15% fund balance limit provided for in subsection (4); or

(b) provisions of subsection (5)."

Section 10. Section 20-9-131, MCA, is amended to read:

"20-9-131. Final budget meeting. (1) On or before August 20, on the date and at the time and place stated in the notice published pursuant to 20-9-115, the trustees of each district shall meet to consider all budget information and any attachments required by law.

(2) The trustees may continue the meeting from day to day but shall adopt the final budget for the district and determine the amounts to be raised by tax levies for the district not later than August 25 and before the computation of the ~~general fund net levy requirement~~ *levy requirements* by the county superintendent and the fixing of the tax levies for each district *and the county*. Any taxpayer in the district may attend any portion of the trustees' meeting and be heard on the budget of the district or on any item or amount contained in the budget.

(3) Upon final approval, the trustees shall deliver the adopted budget, including the amounts to be raised by tax levies, to the county superintendent of schools within 3 days."

Section 11. Section 20-9-141, MCA, is amended to read:

"20-9-141. Computation of general fund net levy requirement revenue and levy requirements by county superintendent – BASE funding revenue requirement – over-BASE levy requirement. (1) The county superintendent shall compute the *revenue and levy requirement requirements* for each district's general fund ~~on the basis of the following procedure: as described in this section.~~

(2) *For a district's BASE funding revenue requirement:*

(a) Determine the funding required for the *BASE area of the district's final general fund budget less the sum of direct state aid and the special education allowable cost payment for the district by totaling:*

(i) *the district's BASE aid; and*

(ii) *if applicable, the district's nonisolated school BASE budget requirement to be met by a district levy as provided in 20-9-303; and*

(ii) *any general fund budget amount adopted by the trustees of the district under the provisions of 20-9-308 and 20-9-353.*

(b) Determine the money available for the reduction of the ~~property tax on the district for the general fund~~ *BASE funding revenue requirement* by totaling:

(i) the general fund balance reappropriated, as established under the provisions of 20-9-104;

(ii) amounts received in the last fiscal year for which revenue reporting was required for each of the following:

(A) interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4); and

(B) any other revenue received during the school fiscal year that may be used to finance the general fund, ~~excluding any guaranteed tax base aid~~;

(iii) anticipated oil and natural gas production taxes *allocated to the BASE portion of the general fund budget at the discretion of school district trustees pursuant to 20-9-310*; and

(iv) pursuant to subsection ~~(4)~~ (6), anticipated revenue from coal gross proceeds under 15-23-703;

(v) if applicable, a coal-fired generating unit closure mitigation block grant as provided in 20-9-638; and

~~(vi) any portion of the increment remitted to a school district under 7-15-4286(3) or 7-15-4291 used to reduce the BASE levy budget.~~

~~(c) Notwithstanding the provisions of subsection (2), subtract~~ *Subtract* the money available to reduce the property tax required to finance the general fund BASE funding revenue requirement that has been determined in subsection ~~(1)(b)~~ (2)(b) from any general fund budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general fund BASE budget levy requirement *the amount determined in subsection (2)(a). This is the district's BASE funding revenue requirement. If the amount determined in subsection (2)(b) exceeds the amount determined in subsection (2)(a), the district's BASE funding revenue requirement is \$0 and the excess amount from subsection (2)(b) must be applied to reducing the over-BASE levy under subsection (3).*

~~(3) For the district's over-BASE budget levy:~~

~~(d)(a) Determine the sum of:~~

~~(i) any excess amount remaining after the determination in subsection (1)(c) (2)(c);~~

~~(ii) any portion of the increment remitted to a school district under 7-15-4286(3) or 7-15-4291 used to reduce the over-BASE budget levy;~~

~~(iii) anticipated oil and natural gas production taxes allocated to the over-BASE portion of the general fund budget at the discretion of school district trustees pursuant to 20-9-310;~~

~~(iv) if applicable, a coal-fired generating unit closure mitigation block grant as provided in 20-9-638; and~~

~~(iii)(v) after first applying anticipated tuition revenue to the BASE budget under subsection (2)(b); any remaining tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324, except the amount of tuition received for a pupil who is a child with a disability in excess of the amount received for a pupil without disabilities, as calculated under 20-5-323(2).~~

~~(e)(b) Subtract the amount determined in subsection (1)(d) (3)(a) from any additional funding requirement to be met by an the district's over-BASE budget amount and a district levy as provided in 20-9-303 to determine any additional general fund levy requirements. This is this the district's over-BASE budget levy.~~

~~(2) The county superintendent shall calculate the number of mills to be levied on the taxable property in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget amount for the district by:~~

~~(a) dividing the amount determined in subsection (1)(c) by the sum of:~~

(i) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the superintendent of public instruction; and

(ii) the current total taxable valuation of the district, as certified by the department of revenue under 15-10-202, divided by 1,000; and

(b) if applicable, subtracting the result of dividing any tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324, except the amount of tuition received for a pupil who is a child with a disability in excess of the amount received for a pupil without disabilities, as calculated under 20-5-323(2), that are available for reduction of the district's BASE budget levy by the current total taxable valuation of the district, as certified by the department of revenue under 15-10-202 divided by 1,000.

(3)(4) *The county superintendent shall:*

(a) *utilize a district's BASE funding revenue requirement calculated under subsection (2) to determine the countywide levy for BASE funding support as described in [section 23]; and*

(b) *The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported report a district's over-BASE budget levy amount to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values by the county superintendent as the general fund net levy requirement for the district, and a levy must be set by the county commissioners in accordance with 20-9-142.*

(5) *If a district has an amount of revenue directed to funding the district's general fund under this section that results in an excess of revenue required to fund the district's over-BASE levy as calculated in subsection (3), the trustees of the district shall allocate that excess to another budgeted fund of the district to reduce local property taxes by the amount of the excess.*

(4)(6) For each school district, the department of revenue shall calculate and report to the county superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross proceeds under 15-23-703."

Section 12. Section 20-9-212, MCA, is amended to read:

"20-9-212. Duties of county treasurer. The county treasurer of each county:

(1) must receive and shall hold all school money subject to apportionment and keep a separate accounting of its apportionment to the several districts that are entitled to a portion of the money according to the apportionments ordered by the county superintendent or by the superintendent of public instruction. A separate accounting must be maintained for each county fund supported by a countywide levy for a specific, authorized purpose, including:

(a) the basic county tax for elementary equalization;

(b) the basic county tax for high school equalization;

(c) the county tax in support of the transportation schedules;

(d) the county tax in support of the elementary and high school district retirement obligations;

(e) *the county tax for elementary and high school district BASE funding support; and*

(e)(f) any other county tax for schools, including the community colleges, that may be authorized by law and levied by the county commissioners.

(2) whenever requested, shall notify the county superintendent and the superintendent of public instruction of the amount of county school money on deposit in each of the funds enumerated in subsection (1) and the amount of any other school money subject to apportionment and apportion the county and other school money to the districts in accordance with the apportionment ordered by the county superintendent or the superintendent of public instruction;

(3) shall keep a separate accounting of the receipts, expenditures, and cash balances for each fund;

(4) except as otherwise limited by law, shall pay all warrants properly drawn on the county or district school money;

(5) must receive all revenue collected by and for each district and shall deposit these receipts in the fund designated by law or by the district if a fund is not designated by law. Interest and penalties on delinquent school taxes must be credited to the same fund and district for which the original taxes were levied.

(6) shall send all revenue received for a joint district, part of which is situated in the county, to the county treasurer designated as the custodian of the revenue, no later than December 15 of each year and every 3 months after that date until the end of the school fiscal year;

(7) at the direction of the trustees of a district, shall assist the district in the issuance and sale of tax and revenue anticipation notes as provided in Title 7, chapter 6, part 11;

(8) shall register district warrants drawn on a budgeted fund in accordance with 7-6-2604 when there is insufficient money available in all funds of the district to make payment of the warrant. Redemption of registered warrants must be made in accordance with 7-6-2605 and 7-6-2606.

(9) when directed by the trustees of a district, shall invest the money of the district within 3 working days of the direction;

(10) each month, shall give to the trustees of each district an itemized report for each fund maintained by the district, showing the paid warrants, registered warrants, interest distribution, amounts and types of revenue received, and the cash balance;

(11) shall remit promptly to the department of revenue receipts for the county tax for a vocational-technical program within a unit of the university system when levied by the board of county commissioners under the provisions of 20-25-439;

(12) shall invest the money received from the basic county taxes for elementary and high school equalization, the county levy in support of the elementary and high school district retirement obligations, *the county tax for elementary and high school district BASE funding support*, and the county levy in support of the transportation schedules within 3 working days of receipt. The money must be invested until the working day before it is required to be distributed to school districts within the county or remitted to the state. Clerks of a school district shall provide a minimum of 30 hours' notice in advance of cash demands to meet payrolls, claims, and electronic transfers that are in excess of \$50,000, pursuant to 20-3-325. If a clerk of a district fails to provide the required 30-hour notice, the county treasurer shall assess a fee equal to any charges demanded by the state investment pool or other permissible investment manager for improperly noticed withdrawal of funds. Permissible investments are specified in 20-9-213(4). All investment income must be deposited, and credited proportionately, in the funds established to account for the taxes received for the purposes specified in subsections (1)(a) through (1)(d).

(13) shall remit on a monthly basis to the department of revenue, as provided in 15-1-504, all county equalization revenue received under the provisions of 20-9-331 and 20-9-333, including all interest earned, in repayment of the state advance for county equalization prescribed in 20-9-347. Any funds in excess of a state advance must be used as required in 20-9-331(1)(b) and 20-9-333(1)(b)."

Section 13. Section 20-9-235, MCA, is amended to read:

“20-9-235. Authorization for school district investment account.

(1) The trustees of a school district may establish investment accounts and may temporarily transfer into the accounts all or a portion of any of its budgeted or nonbudgeted funds.

(2) Money transferred into investment accounts established under this section may be expended from a subsidiary checking account under the conditions specified in subsection (3)(b).

(3) The district may either:

(a) establish and use the accounts as nonspending accounts to ensure that district funds remain in an interest-bearing status until money is reverted to the budgeted or nonbudgeted fund of original deposit as necessary for use by the county treasurer to pay claims against the district. The district shall ensure that sufficient money is reverted to the district's budgeted and nonbudgeted funds maintained by the county treasurer in sufficient time to pay all claims presented against the applicable funds of the district. The county treasurer shall accept all money that is reverted upon tendered transfer of the district.

(b) establish a subsidiary checking account for expenditures from the investment accounts. The district may write checks on or provide electronic payments from the account if:

(i) the payments made from the accounts representing budgeted funds are in compliance with the budget adopted by the trustees;

(ii) the accounts are subject to the audit of district finances completed for compliance with 2-7-503 and 20-9-503; and

(iii) the district complies with all accounting system requirements required by the superintendent of public instruction.

(4) (a) A district that chooses to establish a school district investment account described in this section shall enter into a written agreement with the county treasurer. The agreement must:

(i) establish specific procedures and reporting dates to comply with the requirements of subsection (3);

(ii) be binding upon the district and the county treasurer for a negotiated period of time;

(iii) be signed by the presiding officer of the board of trustees and the county treasurer; and

(iv) coincide with fiscal years beginning on July 1 and ending on June 30.

(b) The district and the county treasurer may renew an agreement, including terms and conditions on which they agree, provided that the terms and conditions comply with the provisions of this section.

(5) Unless otherwise provided by law, all other revenue may be sent directly to a participating district's investment account.

(6) The trustees shall implement an accounting system for the investment account pursuant to rules adopted by the superintendent of public instruction. The rules for the accounting system must include but are not limited to:

(a) providing for the internal control of deposits into and transfers between a district's investment accounts and budgeted and nonbudgeted funds of the district;

(b) requiring that the principal and interest earned on the principal is allocated to the budgeted or nonbudgeted fund from which the deposit was originally made; and

(c) ensuring that other proper accounting principles are followed.

(7) All interest earned on the district's general fund deposits must be allocated ~~for district property tax reduction to reduce the district's BASE funding revenue requirement~~ as required by 20-9-141.

(8) In making deposits to investment accounts under this section, a district shall comply with the requirements of Title 17, chapter 6, part 1, with respect to deposits in excess of the amount insured by the federal deposit insurance corporation or the national credit union administration, as applicable.

(9) A district establishing investment accounts under the section shall pay the automated clearinghouse system charges for all automated clearinghouse transfers made by the office of public instruction to the district's accounts."

Section 14. Section 20-9-306, MCA, is amended to read:

"20-9-306. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district;

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;

(c)(b) the total quality educator payment;

(d)(c) the total at-risk student payment;

(e)(d) the total Indian education for all payment;

(f)(e) the total American Indian achievement gap payment;

(g)(f) the total data-for-achievement payment; and

(h)(g) the special education allowable cost payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, 100% of the total data-for-achievement payment, and 140% of the special education allowable cost payment.

(4) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(4)(5) "BASE budget levy funding revenue requirement" means the district levy amount calculated pursuant to 20-9-141 in support of the BASE budget of a district, which is funded by the countywide levy for BASE funding support under [section 23] and may be supplemented by guaranteed tax base aid if the district county is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) for each high school district:

(i) \$343,483 for fiscal year 2024 and \$353,787 for each succeeding fiscal year for school districts with an ANB of 800 or fewer; and

(ii) \$343,483 for fiscal year 2024 and \$353,787 for each succeeding fiscal year for school districts with an ANB of more than 800, plus \$17,175 for fiscal

year 2024 and \$17,690 for each succeeding fiscal year for each additional 80 ANB over 800;

(b) for each elementary school district or K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(ii) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,863 for fiscal year 2024 and \$2,949 for each succeeding fiscal year for each additional 25 ANB over 250;

(c) for each elementary school district or K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) for the district's kindergarten through grade 6 elementary program:

(A) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(B) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,863 for fiscal year 2024 and \$2,949 for each succeeding fiscal year for each additional 25 ANB over 250; and

(ii) for the district's approved and accredited junior high school, 7th and 8th grade programs, or middle school:

(A) \$114,493 for fiscal year 2024 and \$117,928 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of 450 or fewer; and

(B) \$114,493 for fiscal year 2024 and \$117,928 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of more than 450, plus \$5,724 for fiscal year 2024 and \$5,896 for each succeeding fiscal year for each additional 45 ANB over 450.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, the total data-for-achievement payment, and the greater of the district's special education allowable cost payment multiplied by:

(a) 175%; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and within the general fund budget limits established in 20-9-308 and calculated as provided in 20-9-141.

(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying \$235 for fiscal year 2024 and \$242 for each succeeding fiscal year times the number of American Indian students enrolled in the district as provided in 20-9-330.

(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.

(13) "Total data-for-achievement payment" means the payment provided in 20-9-325 resulting from multiplying \$22.89 for fiscal year 2024 and \$23.58 for each succeeding fiscal year by the district's ANB calculated in accordance with 20-9-311.

(14) "Total Indian education for all payment" means the payment resulting from multiplying \$23.91 for fiscal year 2024 and \$24.63 for each succeeding fiscal year times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

(15) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of \$7,840 for fiscal year 2024 and \$8,075 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of \$6,123 for fiscal year 2024 and \$6,307 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

(i) a maximum rate of \$6,123 for fiscal year 2024 and \$6,307 for each succeeding fiscal year for the first ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of \$7,840 for fiscal year 2024 and \$8,075 for each succeeding fiscal year for the first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(16) "Total quality educator payment" means the payment resulting from multiplying \$3,566 for fiscal year 2024 and \$3,673 for each succeeding fiscal year by the sum of:

(a) the number of full-time equivalent educators as provided in 20-9-327; and

(b) as provided in 20-9-324, for a school district meeting the legislative goal for competitive base pay of teachers, the number of full-time equivalent teachers that were in the first 3 years of the teacher's teaching career in the previous year.

(17) "Total special education allocation" means the state payment distributed pursuant to 20-9-321 that is the greater of the amount resulting from multiplying \$293.74 for fiscal year 2024 and \$302.55 for each succeeding

fiscal year by the statewide current year ANB or the amount of the previous year's total special education allocation.”

Section 15. Section 20-9-308, MCA, is amended to read:

“20-9-308. BASE budgets and general fund budget limits. (1) The trustees of a district shall adopt a general fund budget that is at least equal to the BASE budget established for the district. The trustees of a district may adopt a general fund budget up to the greater of:

(a) the current year maximum general fund budget; or

(b) the previous year's general fund budget plus any increase in direct state aid for the basic and per-ANB entitlements and any increases in state funding of the data-for-achievement payment under 20-9-325 and in the general fund payments in 20-9-327 through 20-9-330.

(2) (a) Except as provided in subsection (2)(b), whenever the trustees of a district propose to adopt a general fund budget that exceeds the BASE budget for the district and propose to increase the over-BASE budget levy over the highest revenue previously authorized by the electors of the district or imposed by the district in any of the previous 5 years to support the general fund budget, the trustees shall submit a proposition to the electors of the district, as provided in 20-9-353.

(b) The intent of this section is to increase the flexibility and efficiency of elected school boards without increasing school district property taxes. In furtherance of this intent and provided that budget limitations otherwise specified in law are not exceeded, the trustees of a district may increase the district's over-BASE budget levy without a vote if the board of trustees reduces nonvoted property tax levies authorized by law to be imposed by action of the trustees of the district by at least as much as the amount by which the over-BASE budget levy is increased. The ongoing authority for any nonvoted increase in the over-BASE budget levy imposed under this subsection (2)(b) must be decreased in future years to the extent that the trustees of the district impose any increase in other nonvoted property tax levies.

(3) The BASE budget for the district must be financed by the following sources of revenue:

(a) state equalization aid, as provided in 20-9-343; ~~including any guaranteed tax base aid for which the district may be eligible, as provided in 20-9-366 through 20-9-369;~~

(b) county equalization aid, as provided in 20-9-331 and 20-9-333;

(c) a district levy for support of a school not approved as an isolated school under the provisions of 20-9-302;

(d) payments in support of special education programs under the provisions of 20-9-321;

(e) nonlevy revenue, as provided in 20-9-141; and

(f) ~~a BASE budget levy on the taxable value of all property within the district the countywide levy for BASE funding support under [section 23].~~

(4) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all property within the district or other revenue available to the district, as provided in 20-9-141.”

Section 16. Section 20-9-310, MCA, is amended to read:

“20-9-310. Oil and natural gas production taxes for school districts – allocation and limits. (1) Except as provided in subsection (5), the maximum amount of oil and natural gas production taxes that a school district may retain is 130% of the school district's maximum budget, determined in accordance with 20-9-308.

(2) Upon receipt of school district budget reports required under 20-9-134, the superintendent of public instruction shall provide the department of

revenue with a list reporting the maximum general fund budget for each school district.

(3) Except as provided by 15-36-332(9), the department of revenue shall make the full quarterly distribution of oil and natural gas production taxes as required under 15-36-332(6) until the amount distributed reaches the limitation in subsection (1) of this section. The department of revenue shall deposit any amount exceeding the limitation in subsection (1) in the guarantee account provided for in 20-9-622.

(4) ~~(a) Subject to the limitation in subsection (1) and the conditions in subsection (4)(b), the trustees shall budget and allocate the oil and natural gas production taxes anticipated by the district in any budgeted fund at the discretion of the trustees. Oil and natural gas production taxes allocated to the district general fund may be applied to the BASE or over-BASE portions of the general fund budget at the discretion of the trustees.~~

~~(b) Except as provided in subsection (4)(c), if the trustees apply an amount less than 12.5% of the total oil and natural gas production taxes received by the district in the prior school fiscal year to the district's general fund BASE budget for the upcoming school fiscal year, then:~~

~~(i) the trustees shall levy the number of mills required to raise an amount equal to the difference between 12.5% of the oil and natural gas production taxes received by the district in the prior school fiscal year and the amount of oil and natural gas production taxes the trustees budget in the district's general fund BASE budget for the upcoming school fiscal year;~~

~~(ii) the mills levied under subsection (4)(b)(i) are not eligible for the guaranteed tax base subsidy under the provisions of 20-9-366 through 20-9-369; and~~

~~(iii) the general fund BASE budget levy requirement calculated in 20-9-141 must be calculated as though the trustees budgeted 12.5% of the oil and natural gas production taxes received by the district in the prior year and the number of mills calculated in subsection (4)(b)(i) must be added to the number of mills calculated in 20-9-141(2);~~

~~(c) The provisions of subsection (4)(b) do not apply to the following:~~

~~(i) a district that has a maximum general fund budget of less than \$1 million;~~

~~(ii) a district whose oil and natural gas revenue combined with its adopted general fund budget totals 105% or less of its maximum general fund budget;~~

~~(iii) a district that has a maximum general fund budget of \$1 million or more and was eligible for a significant enrollment increase payment pursuant to 20-9-166 in the fiscal year immediately preceding the fiscal year to which the provisions of this subsection (4) would otherwise apply; or~~

~~(iv) a district that has issued outstanding oil and natural gas revenue bonds. Funds received pursuant to this section must first be applied by the district to payment of debt service obligations for oil and natural gas revenue bonds for the next 12-month period.~~

(5) (a) The limit on oil and natural gas production taxes that a school district may retain under subsection (1) must be increased for any school district that was eligible for a significant enrollment increase payment pursuant to 20-9-166. The increase in the limit on oil and natural gas production taxes that a school district may retain under subsection (1) applies in the fiscal year immediately following the fiscal year in which the district was eligible and must be calculated by multiplying \$45,000 times each additional ANB used to calculate the significant enrollment increase payment pursuant to 20-9-166, including the absorption factor reduction.

(b) For a district in nonoperating status under 20-9-505, the maximum amount of oil and natural gas production taxes that a school district may retain is 130% of the school district's maximum budget in the district's most recent operating year, determined in accordance with 20-9-308.

(6) In any year in which the actual oil and natural gas production taxes received by a school district are less than 50% of the total oil and natural gas production taxes received by the district in the prior year, the district may transfer money from any budgeted fund to its general fund in an amount not to exceed the amount of the shortfall."

Section 17. Section 20-9-336, MCA, is amended to read:

"20-9-336. School equalization and property tax reduction account – uses. (1) There is a school equalization and property tax reduction account in the state special revenue fund. Contingent on appropriation by the legislature, money in the account is for distribution to school districts as the second source of funding for state equalization aid as provided in 20-9-343. At fiscal yearend, any fund balance in the account exceeding what was appropriated must be transferred to the guarantee account established in 20-9-622.

(2) The account receives revenue as described in 20-9-331, 20-9-333, and 20-9-360.

(3) Beginning in fiscal year 2025, each December the superintendent of public instruction shall forecast the amount of revenue the account will receive in that fiscal year by dividing the sum of the taxable value of all property in the state reported by the department of revenue pursuant to 20-9-369 by 1,000 to determine a statewide value mill and then multiplying that amount by 95 mills, or the number of mills calculated by the department of revenue under 15-10-420(8) for the applicable fiscal year. If the forecasted amount differs from the amount determined through the same calculation in the prior fiscal year by \$2 million or more and is:

(a) less, then the superintendent shall:

(i) decrease the multiplier used to calculate the statewide ~~elementary and high school guaranteed tax base ratios used for funding BASE budgets~~ *guaranteed tax base ratio for the countywide levy for BASE funding support* under 20-9-366 to the nearest whole number determined by the superintendent to result in a decrease in the amount of guaranteed tax base aid distributed to eligible ~~school districts~~ *counties* equal to 85% of the decrease in the calculated amount between the 2 years; and

(ii) decrease the multiplier used to calculate the statewide elementary and high school mill value per ANB for school retirement guaranteed tax base purposes under 20-9-366 to the nearest whole number determined by the superintendent to result in a decrease in the amount of retirement guaranteed tax base aid distributed to eligible school districts equal to 15% of the decrease in the calculated amount between the 2 years;

(b) more, then the superintendent shall increase the multipliers used in the guaranteed tax base formulas under 20-9-366 and in the formula for school major maintenance aid under 20-9-525 to the nearest whole number by an amount calculated by the superintendent to result in an increase in the amount of guaranteed tax base aid and school major maintenance aid distributed to eligible counties and school districts equal to 55% of the increase in the calculated amount between the 2 years in the following order, with any amount exceeding the caps under subsections (3)(b)(i) through (3)(b)(iii) flowing to the next mechanism:

(i) first, the multiplier used in calculating the statewide mill value per elementary and high school ANB for retirement purposes, not to exceed 305%;

(ii) second, the multiplier used in calculating the amount of state school major maintenance aid support for each dollar of local effort, not to exceed 365%; and

(iii) third, the multiplier used in calculating the facility guaranteed mill value per ANB for school facility entitlement guaranteed tax base purposes, not to exceed 300%.

(4) (a) The adjustments to the multipliers under subsection (3) are applicable to state equalization aid distributions in the fiscal year following the adjustment.

(b) Adjustments to the multipliers made under subsection (3) remain in effect in subsequent years unless further changed under 20-9-366 or subsection (3) of this section or as otherwise provided by law."

Section 18. Section 20-9-366, MCA, is amended to read:

"20-9-366. Definitions. Subject to adjustments pursuant to 20-9-336, as used in 20-9-366 through 20-9-371, the following definitions apply:

(1) ~~"County retirement mill value per elementary ANB" or "county retirement mill value per high school ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' prior year total per-ANB entitlement amounts.~~

(2)(1) (a) *"District County elementary guaranteed tax base ratio" or "county high school guaranteed tax base ratio" for guaranteed tax base funding for the countywide levy for BASE budget funding support of an eligible district county means the taxable valuation in the previous year of all property in the district, except for property value disregarded because of protested taxes under 15-1-409(2) or property subject to the creation of a new school district under 20-6-326 county, divided by the district's sum of the prior year GTBA budget area areas of the elementary school districts or the high school districts in the county. The GTBA budget areas for joint districts must be prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each county.*

(b) "District mill value per ANB", for school facility entitlement purposes, means the taxable valuation in the previous year of all property in the district, except for property subject to the creation of a new school district under 20-6-326, divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district's prior year total per-ANB entitlement amount.

(2) *"County retirement mill value per elementary ANB" or "county retirement mill value per high school ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' prior year total per-ANB entitlement amounts.*

(3) "Facility guaranteed mill value per ANB", for school facility entitlement guaranteed tax base purposes, means, subject to adjustment under 20-9-336, the sum of the taxable valuation in the previous year of all property in the state, multiplied by 140% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts' prior year total per-ANB entitlement amounts.

(4) "Guaranteed tax base aid budget area" or "GTBA budget area" means the portion of a district's BASE budget after ~~the following payments are subtracted:~~

(a) direct state aid;
 (b) the total data-for-achievement payment;
 (c) the total quality educator payment;
 (d) the total at-risk student payment;
 (e) the total Indian education for all payment;
 (f) the total American Indian achievement gap payment; and
 (g) the state special education allowable cost payment *BASE aid is subtracted.*

(5) (a) “Statewide elementary guaranteed tax base ratio” or “statewide high school guaranteed tax base ratio”, for guaranteed tax base funding for the BASE budget of an eligible district *the countywide levy for BASE funding support*, means, subject to adjustment under 20-9-336, the sum of the taxable valuation in the previous year of all property in the state, multiplied by ~~254%~~ *254%* for fiscal year 2024 and by ~~259%~~ *259%* for fiscal year 2025 *the percentage determined under [section 25] for fiscal year 2027* and each succeeding fiscal year and divided by the prior year statewide GTBA budget area for the state elementary school districts or the state high school districts. For fiscal year 2024 and subsequent fiscal years, the superintendent of public instruction shall increase the multiplier, not to exceed 262%, in this subsection (5)(a) as follows:

(i) for fiscal years 2024 through 2031, if the revenue transferred to the state general fund pursuant to 16-12-111 in the prior fiscal year is at least \$1 million more than the revenue transferred in the fiscal year 2 years prior, then:

(A) multiply the amount of increased revenue transferred to the state general fund pursuant to 16-12-111 in the prior fiscal year above the amount of revenue transferred in the fiscal year 2 years prior by 0.25, divide the resulting product by \$500,000, and round to the nearest whole number; and

(B) add the number derived in subsection (5)(a)(i)(A) as a percentage point increase to the multiplier used for the prior fiscal year;

(ii) for fiscal years 2024 through 2031, if the revenue transferred to the state general fund pursuant to 16-12-111 in the prior fiscal year is less than \$1 million more than the revenue transferred in the fiscal year 2 years prior, then the multiplier is equal to the multiplier used for the prior fiscal year;

(iii) for fiscal years 2032 and subsequent fiscal years, the multiplier is equal to the multiplier used for fiscal year 2031; and

(iv) for all multiplier increases under this subsection (5)(a), the calculations are made in the year prior to the year in which the increase to the multiplier takes effect and impacts distribution of guaranteed tax base aid.

(b) “Statewide mill value per elementary ANB” or “statewide mill value per high school ANB”, for school retirement guaranteed tax base purposes, means, subject to adjustment under 20-9-336, the sum of the taxable valuation in the previous year of all property in the state, multiplied by 189% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB amount used to calculate the elementary school districts’ and high school districts’ prior year total per-ANB entitlement amounts.”

Section 19. Section 20-9-367, MCA, is amended to read:

“20-9-367. Eligibility to receive guaranteed tax base aid or state debt service assistance for school facilities. (1) If the district guaranteed tax base ratio of an elementary or high school district *county elementary or high school guaranteed tax base ratio* is less than the corresponding statewide elementary or high school guaranteed tax base ratio, the district *county* may receive guaranteed tax base aid based on the number of mills levied in the district in support of up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement, and up to 40% of the special education allowable

~~cost payment budgeted within the general fund budget for the countywide levy for BASE funding support.~~

(2) If the county retirement mill value per elementary ANB or the county retirement mill value per high school ANB is less than the corresponding statewide mill value per elementary ANB or high school ANB, the county may receive guaranteed tax base aid based on the number of mills levied in the county in support of the retirement fund budgets of the respective elementary or high school districts in the county.

(3) For the purposes of 20-9-370 and 20-9-371, if the district mill value per elementary ANB or the district mill value per high school ANB is less than the corresponding statewide mill value per elementary ANB or statewide mill value per high school ANB, the district may receive debt service assistance in the form of a state advance or reimbursement for school facilities in support of the debt service fund."

Section 20. Section 20-9-368, MCA, is amended to read:

"20-9-368. Amount of guaranteed tax base aid. (1) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the elementary school districts in the county is the difference between the county mill value per elementary ANB and the statewide mill value per elementary ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the elementary districts in the county.

(2) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the high school districts in the county is the difference between the county mill value per high school ANB and the statewide mill value per high school ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the high school districts in the county.

(3) ~~The amount of guaranteed tax base aid for each mill levied that a district may receive in support of up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted within the general fund budget, and up to 40% of the special education payment county may receive for the elementary or high school countywide levy for BASE funding support is calculated in the following manner:~~

(a) ~~multiply the sum of the district's countywide elementary or high school prior year GTBA budget area by the corresponding statewide guaranteed tax base ratio;~~

(b) ~~subtract the prior year taxable valuation of the district county from the product obtained in subsection (3)(a); and~~

(c) ~~divide the remainder by 1,000 to determine the equivalent to the dollar amount of guaranteed tax base aid for each mill levied.~~

(4) ~~Guaranteed tax base aid provided to any county or district under this section is earmarked to finance the fund or portion of the fund for which it is provided. If a county or district receives more guaranteed tax base aid than it is entitled to, the excess must be returned to the state as required by 20-9-344."~~

Section 21. Section 20-9-369, MCA, is amended to read:

"20-9-369. Duties of superintendent of public instruction and department of revenue. (1) The superintendent of public instruction shall administer the distribution of guaranteed tax base aid by:

(a) providing each school district and county superintendent, by March 1 of each year, with the preliminary statewide and ~~district county~~ guaranteed tax base ratios and, by May 1 of each year, with the final statewide and ~~district county~~ guaranteed tax base ratios, for use in calculating the guaranteed tax base aid available for the ensuing school fiscal year;

(b) providing each school district and county superintendent, by March 1 of each year, with the preliminary statewide, county, and district mill values per ANB and, by May 1 of each year, with the final statewide, county, and district mill values per ANB, for use in calculating the guaranteed tax base aid and state advance and reimbursement for school facilities available to counties and districts for the ensuing school fiscal year;

(c) requiring each county and district that qualifies and applies for guaranteed tax base aid to report to the county superintendent all budget and accounting information required to administer the guaranteed tax base aid;

(d) keeping a record of the complete data concerning appropriations available for guaranteed tax base aid and the entitlements for the aid of the counties and districts that qualify;

(e) distributing the guaranteed tax base aid entitlement to each qualified county or district from the appropriations for that purpose.

(2) The superintendent shall adopt rules necessary to implement 20-9-366 through 20-9-369.

(3) The department of revenue shall provide the superintendent of public instruction by December 1 of each year a final determination of the taxable value of property within each school district and county of the state reported to the department of revenue based on information delivered to the county clerk and recorder as required in 15-10-305.

~~(4) The superintendent of public instruction shall calculate the district and statewide guaranteed tax base ratios by applying the prior year's direct state aid payment."~~

Section 22. Section 20-9-515, MCA, is amended to read:

"20-9-515. Litigation reserve fund. (1) The trustees of a school district may establish a litigation reserve fund only when litigation that is pending against the district could result in an award against the district.

(2) At the end of each school fiscal year, the trustees of a district may transfer money from the general fund, within the adopted budget, to establish the fund.

(3) Upon conclusion of litigation, the balance of the money in the fund reverts to the general fund and must be used to reduce the district's ~~general fund~~ ~~BASE budget levy~~ *BASE funding revenue* requirement computed pursuant to 20-9-141."

Section 23. Countywide levies to support BASE budgets.

(1) Pursuant to 20-9-141, the portion of a district's BASE budget not funded by BASE aid, fund balance reappropriated, nonlevy revenue, and, if applicable, a district levy for support of a school not approved as an isolated school under the provisions of 20-9-302 is the district's BASE funding revenue requirement and must be funded through an elementary or high school countywide levy as described in this section.

(2) When the final school district general fund budgets of all school districts in the county have been adopted, the county superintendent shall separately total the BASE funding revenue requirements for the elementary and high school districts of the county, including any prorated levy requirements pursuant to subsection (3).

(3) The BASE funding revenue requirement for a joint school district must be prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each county. The county superintendents of the counties affected shall jointly determine the BASE funding revenue requirement for each county as provided in 20-9-151.

(4) The county superintendent shall apply any fund balance remaining from the prior fiscal year in the county elementary or high school BASE support fund to reduce the amount of revenue to be raised by the corresponding countywide levy.

(5) The county superintendent shall:

(a) calculate the number of mills to be levied on the taxable property in the county to finance the BASE funding levy requirement by ~~dividing~~ *subtracting from the amount determined in subsection (3)(2) any fund balance determined under subsection (4) and then dividing the remaining total* by the sum of:

(i) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified by the superintendent of public instruction; and

(ii) the taxable valuation of the district divided by 1,000; and

(b) report the number of mills required to fund the BASE funding levy requirement to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values.

(6) The county commissioners shall fix and set the countywide BASE funding levies in accordance with 20-9-142.

(7) The county superintendent of each county shall submit a report of the revenue amounts used to establish the BASE funding levy requirements to the superintendent of public instruction on or before September 15. The report must be completed on forms supplied by the superintendent of public instruction.

Section 24. Repealer. The following section of the Montana Code Annotated is repealed:

15-1-409. Exclusion of certain property subject to property tax protest -- guaranteed tax base -- tax refund.

Section 25. Transition. (1) The legislature intends this act to be fully operational in fiscal year 2027 with the first countywide levies to support BASE budgets levied in fiscal year 2027. The office of public instruction shall prepare for this implementation and support counties and school districts with this transition, including any necessary rulemaking, in a timely manner.

(2) (a) The superintendent of public instruction shall determine the multiplier used to calculate guaranteed tax base funding for the countywide levy for BASE funding support in 20-9-366(5)(a) for fiscal year 2027 to result in a statewide distribution of guaranteed tax base funding for the countywide levy for BASE funding support equal to the statewide distribution of guaranteed tax base funding for the BASE budgets of school districts in fiscal year 2026 multiplied by 1.03.

(b) The adjustment to the multiplier under subsection (2)(a) must remain in effect for subsequent fiscal years unless otherwise provided by law.

Section 26. Codification instruction. [Section 23] is intended to be codified as an integral part of Title 20, chapter 9, part 3, and the provisions of Title 20, chapter 9, part 3, apply to [section 22].

Section 27. Coordination instruction. If both House Bill No. 483 and [this act] are passed and approved, then [section 14 of this act], amending 20-9-306, is void and 20-9-306 must be amended as follows:

“20-9-306. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) “BASE” means base amount for school equity.

(2) “BASE aid” means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district;

~~(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement~~

~~budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;~~

- ~~(c)(b) the total quality educator payment;~~
- ~~(d)(c) the total at-risk student payment;~~
- ~~(e)(d) the total Indian education for all payment;~~
- ~~(f)(e) the total American Indian achievement gap payment;~~
- ~~(g)(f) the total data-for-achievement payment; and~~
- ~~(h)(g) the special education allowable cost payment.~~

(3) "BASE budget" means the minimum general fund budget of a district, which includes:

(a) subject to adjustment under 20-9-336, 80% of the basic entitlement; and 80% of the total per-ANB entitlement;;

(b) 100% of the following payments:

- (i) the total quality educator payment, 100% of;*
- (ii) the total at-risk student payment, 100% of;*
- (iii) the total Indian education for all payment, 100% of;*
- (iv) the total American Indian achievement gap payment, 100% of; and*
- (v) the total data-for-achievement payment;; and*

(c) 140% of the special education allowable cost payment.

(4) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

~~(4)(5) "BASE budget levy funding revenue requirement" means the district levy amount calculated in support of the BASE budget of a district, which is funded by the countywide levy for BASE funding support under [section 23] and may be supplemented by guaranteed tax base aid if the district county is eligible under the provisions of 20-9-366 through 20-9-369.~~

~~(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.~~

(6) "Basic entitlement" means:

(a) for each high school district:

(i) \$343,483 for fiscal year 2024 and \$353,787 for each succeeding fiscal year for school districts with an ANB of 800 or fewer; and

(ii) \$343,483 for fiscal year 2024 and \$353,787 for each succeeding fiscal year for school districts with an ANB of more than 800, plus \$17,175 for fiscal year 2024 and \$17,690 for each succeeding fiscal year for each additional 80 ANB over 800;

(b) for each elementary school district or K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(ii) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,863 for fiscal year 2024 and \$2,949 for each succeeding fiscal year for each additional 25 ANB over 250;

(c) for each elementary school district or K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) for the district's kindergarten through grade 6 elementary program:

(A) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(B) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,863 for fiscal year 2024 and \$2,949 for each succeeding fiscal year for each additional 25 ANB over 250; and

(ii) for the district's approved and accredited junior high school, 7th and 8th grade programs, or middle school:

(A) \$114,493 for fiscal year 2024 and \$117,928 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of 450 or fewer; and

(B) \$114,493 for fiscal year 2024 and \$117,928 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of more than 450, plus \$5,724 for fiscal year 2024 and \$5,896 for each succeeding fiscal year for each additional 45 ANB over 450.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, the total data-for-achievement payment, and the greater of the district's special education allowable cost payment multiplied by:

(a) 175%; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and within the general fund budget limits established in 20-9-308 and calculated as provided in 20-9-141.

(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying \$235 for fiscal year 2024 and \$242 for each succeeding fiscal year times the number of American Indian students enrolled in the district as provided in 20-9-330.

(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.

(13) "Total data-for-achievement payment" means the payment provided in 20-9-325 resulting from multiplying \$22.89 for fiscal year 2024 and \$23.58 for each succeeding fiscal year by the district's ANB calculated in accordance with 20-9-311.

(14) "Total Indian education for all payment" means the payment resulting from multiplying \$23.91 for fiscal year 2024 and \$24.63 for each succeeding fiscal year times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

(15) “Total per-ANB entitlement” means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of \$7,840 for fiscal year 2024 and \$8,075 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of \$6,123 for fiscal year 2024 and \$6,307 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

(i) a maximum rate of \$6,123 for fiscal year 2024 and \$6,307 for each succeeding fiscal year for the first ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of \$7,840 for fiscal year 2024 and \$8,075 for each succeeding fiscal year for the first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(16) “Total quality educator payment” means the payment resulting from multiplying \$3,566 for fiscal year 2024 and \$3,673 for each succeeding fiscal year by the sum of:

(a) the number of full-time equivalent educators as provided in 20-9-327; and

(b) as provided in 20-9-324, for a school district meeting the legislative goal for competitive base pay of teachers, the number of full-time equivalent teachers that were in the first 3 years of the teacher’s teaching career in the previous year.

(17) “Total special education allocation” means the state payment distributed pursuant to 20-9-321 that is the greater of the amount resulting from multiplying \$293.74 for fiscal year 2024 and \$302.55 for each succeeding fiscal year by the statewide current year ANB or the amount of the previous year’s total special education allocation.”

Section 28. Coordination instruction. If both House Bill No. 483 and [this act] are passed and approved, then [section 17 of this act], amending 20-9-336, is void and 20-9-336 must be amended as follows:

“20-9-336. School equalization and property tax reduction account – uses. (1) There is a school equalization and property tax reduction account in the state special revenue fund. Contingent on appropriation by the legislature, money in the account is for distribution to school districts as the second source of funding for state equalization aid as provided in 20-9-343. At fiscal yearend, any fund balance in the account exceeding what was appropriated must be transferred to the guarantee account established in 20-9-622.

(2) The account receives revenue as described in 20-9-331, 20-9-333, and 20-9-360.

(3) (a) Beginning in fiscal year ~~2025~~ 2027, each December the superintendent of public instruction shall forecast the amount of revenue the account will receive in that fiscal year by dividing the sum of the taxable value of all property in the state reported by the department of revenue pursuant to 20-9-369 by 1,000 to determine a statewide value mill and then multiplying that amount by 95 mills, ~~or the number of mills calculated by the department of revenue under 15-10-420 (8) for the applicable fiscal year the total number of mills specified in 20-9-331, 20-9-333, and 20-9-360.~~

(b) If the forecasted amount in subsection (3)(a) differs from the amount determined through the same calculation in the prior fiscal year ~~by \$2 million or more~~ and is:

(a) less by an amount greater than \$2 million, then the superintendent shall:

(i) decrease the multiplier used to calculate the statewide elementary and high school guaranteed tax base ratios used for funding ~~BASE budgets guaranteed tax base ratio for the countywide levy for BASE funding support~~ under 20-9-366 to the nearest whole number determined by the superintendent to result in a decrease in the amount of guaranteed tax base aid distributed to eligible school districts ~~counties~~ equal to 85% of the decrease in the calculated amount between the 2 years; and

(ii) decrease the multiplier used to calculate the statewide elementary and high school mill value per ANB for school retirement guaranteed tax base purposes under 20-9-366 to the nearest whole number determined by the superintendent to result in a decrease in the amount of retirement guaranteed tax base aid distributed to eligible school districts ~~counties~~ equal to 15% of the decrease in the calculated amount between the 2 years;

(b) ~~more, then the superintendent shall increase the multipliers used in the guaranteed tax base formulas under 20-9-366 and in the formula for school major maintenance aid under 20-9-525 to the nearest whole number by an amount calculated by the superintendent to result in an increase in the amount of guaranteed tax base aid and school major maintenance aid distributed to eligible counties and school districts equal to 55% of the increase in the calculated amount between the 2 years in the following order, with any amount exceeding the caps under subsections (3)(b)(i) through (3)(b)(iii) flowing to the next mechanism:~~

(i) ~~first, the multiplier used in calculating the statewide mill value per elementary and high school ANB for retirement purposes, not to exceed 305%;~~

(ii) ~~second, the multiplier used in calculating the amount of state school major maintenance aid support for each dollar of local effort, not to exceed 365%; and~~

(iii) ~~third, the multiplier used in calculating the facility guaranteed mill value per ANB for school facility entitlement guaranteed tax base purposes, not to exceed 300%.~~

(c) *If the forecasted amount in subsection (3)(a) is greater than the amount determined through the same calculation in the prior fiscal year, the superintendent, using an amount equal to 50% of the forecasted revenue growth up to revenue growth of 105% of the prior fiscal year revenue plus all forecasted revenue growth above 105% of the prior fiscal year revenue, shall:*

(i) *first increase the multiplier used to calculate statewide mill value per elementary and high school ANB for retirement purposes under 20-9-366, not to exceed 305%, to the nearest whole number determined by the superintendent to result in an increase in the amount of guaranteed tax base aid distributed to eligible counties as close as mathematically possible to the excess amount determined in subsection (3)(c); and*

(ii) if there is an excess amount remaining after the 305% cap is hit under subsection (3)(c)(i), then:

(A) the superintendent shall increase the percentages of the basic and per-ANB entitlements in 20-9-306(2)(b) and (3)(a) by whole numbers not to exceed 45.3% and 90% respectively, then the multiplier used to calculate the statewide elementary and high school guaranteed tax base ratios used for guaranteed tax base funding for the countywide levy for BASE funding support under 20-9-366 by whole numbers in a manner determined by the superintendent to result in an increase in the amount of guaranteed tax base aid distributed to eligible counties as close as mathematically possible to the excess amount remaining without an increase in the amount of countywide BASE funding levies on a statewide basis; and

(B) in making the calculations under subsection (3)(c)(ii)(A) and in calculating the guaranteed tax base aid ratios under 20-9-366 for the ensuing school fiscal year, the superintendent shall utilize a GTBA budget area for the prior year based on the adjusted percentages of the basic and per-ANB entitlements.

(4) (a) The adjustments to the multipliers and percentages under subsection (3) are applicable to state equalization aid distributions in the fiscal year following the adjustment.

(b) Adjustments to the multipliers and percentages made under subsection (3) remain in effect in subsequent years unless further changed under 20-9-366 or subsection (3) of this section or as otherwise provided by law.”

Section 29. Effective date. [This act] is effective July 1, 2026.

Section 30. Coordination instruction. If both House Bill No. 483 and [this act] are passed and approved, then:

(1) the section amending 20-9-366 in House Bill No. 483 terminates June 30, 2026; and

(2) [section 18 of this act], amending 20-9-366, is void and 20-9-366 must be amended as follows:

“20-9-366. Definitions. Subject to adjustments pursuant to 20-9-336, as used in 20-9-366 through 20-9-371, the following definitions apply:

(1) “County retirement mill value per elementary ANB” or “county retirement mill value per high school ANB” means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts’ and high school districts’ prior year total per-ANB entitlement amounts:

(2)(1) (a) “District County elementary guaranteed tax base ratio” or “county high school guaranteed tax base ratio” for guaranteed tax base funding for the countywide levy for BASE budget funding support of an eligible district county means the taxable valuation in the previous year of all property in the district county, except for property value disregarded because of protested taxes under 15-1-409(2) or property subject to the creation of a new school district under 20-6-326, divided by the district’s sum of the prior year GTBA budget area areas of the elementary school districts or the high school districts in the county. The GTBA budget areas for joint districts must be prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each county.

(b) “District mill value per ANB”, for school facility entitlement purposes, means the taxable valuation in the previous year of all property in the district, except for property subject to the creation of a new school district under 20-6-326, divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district’s prior year total per-ANB entitlement amount.

(2) “County retirement mill value per elementary ANB” or “county retirement mill value per high school ANB” means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts’ and high school districts’ prior year total per-ANB entitlement amounts.

(3) “Facility guaranteed mill value per ANB”, for school facility entitlement guaranteed tax base purposes, means, ~~subject to adjustment under 20-9-336~~, the sum of the taxable valuation in the previous year of all property in the state, multiplied by 140% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts’ and high school districts’ prior year total per-ANB entitlement amounts.

(4) “Guaranteed tax base aid budget area” or “GTBA budget area” means the portion of a district’s BASE budget after ~~the following payments are subtracted~~:

(a) direct state aid;
(b) the total data-for-achievement payment;
(c) the total quality educator payment;
(d) the total at-risk student payment;
(e) the total Indian education for all payment;
(f) the total American Indian achievement gap payment; and
(g) ~~the state special education allowable cost payment~~ *BASE aid is subtracted*.

(5) (a) “Statewide elementary guaranteed tax base ratio” or “statewide high school guaranteed tax base ratio”, for guaranteed tax base funding for the BASE budget of an eligible district ~~the countywide levy for BASE funding support~~, means, subject to adjustment under 20-9-336 and ~~[section 19 of House Bill No. 483]~~, the sum of the taxable valuation in the previous year of all property in the state, multiplied by ~~254% for fiscal year 2024 and by 259% for fiscal year 2025~~ *the percentage determined under [section 25 of this act] for fiscal year 2027* and each succeeding fiscal year and divided by the prior year statewide GTBA budget area for the state elementary school districts or the state high school districts. For fiscal year 2024 and subsequent fiscal years, the superintendent of public instruction shall increase the multiplier, not to exceed 262%, in this subsection (5)(a) as follows:

(i) for fiscal years 2024 through 2031, if the revenue transferred to the state general fund pursuant to 16-12-111 in the prior fiscal year is at least \$1 million more than the revenue transferred in the fiscal year 2 years prior, then:

(A) ~~multiply the amount of increased revenue transferred to the state general fund pursuant to 16-12-111 in the prior fiscal year above the amount of revenue transferred in the fiscal year 2 years prior by 0.25, divide the resulting product by \$500,000, and round to the nearest whole number; and~~

(B) ~~add the number derived in subsection (5)(a)(i)(A) as a percentage point increase to the multiplier used for the prior fiscal year;~~

(ii) for fiscal years 2024 through 2031, if the revenue transferred to the state general fund pursuant to 16-12-111 in the prior fiscal year is less than \$1 million more than the revenue transferred in the fiscal year 2 years prior, then the multiplier is equal to the multiplier used for the prior fiscal year;

(iii) for fiscal years 2032 and subsequent fiscal years, the multiplier is equal to the multiplier used for fiscal year 2031; and

(iv) for all multiplier increases under this subsection (5)(a), the calculations are made in the year prior to the year in which the increase to the multiplier takes effect and impacts distribution of guaranteed tax base aid.

(b) “Statewide mill value per elementary ANB” or “statewide mill value per high school ANB”, for school retirement guaranteed tax base purposes, means, subject to adjustment under 20-9-336 and [section 19 of House Bill No. 483], the sum of the taxable valuation in the previous year of all property in the state, multiplied by 189% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB amount used to calculate the elementary school districts’ and high school districts’ prior year total per-ANB entitlement amounts.”

Section 31. Applicability. [This act] applies to fiscal years beginning on or after July 1, 2026.

Approved May 5, 2025

CHAPTER NO. 425

[HB 162]

AN ACT PROVIDING THAT A RESORT TAX LEVY FOR INFRASTRUCTURE MAY BE USED FOR CERTAIN HOUSING PROJECTS; REVISING THE DEFINITION OF INFRASTRUCTURE; AMENDING SECTION 7-6-1501, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-6-1501, MCA, is amended to read:

“7-6-1501. Definitions. As used in this part, the following definitions apply:

(1) “Board of directors” means the board of directors of the resort area district.

(2) “Infrastructure” means:

(a) tangible facilities and assets related to water, sewer, wastewater treatment, storm water, and solid waste and utilities systems;;

(b) fire protection, ambulance, and law enforcement;;

(c) roads, bridges, and other transportation needs; and

(d) workforce and community housing projects.

(3) “Luxuries” means any gift item, luxury item, or other item normally sold to the public or to transient visitors or tourists. The term does not include food purchased unprepared or unserved, medicine, medical supplies and services, appliances, hardware supplies and tools, or any necessities of life.

(4) “Medical supplies” means items that are sold to be used for curative, prosthetic, or medical maintenance purposes, whether or not prescribed by a physician.

(5) “Medicine” means substances sold for curative or remedial properties, including both physician prescribed and over-the-counter medications.

(6) “Qualified elector” means a person who is qualified to vote under 13-1-111 and is a resident of a resort community, resort area, or proposed or established resort area district.

(7) “Resort area” means an area that:

(a) is an unincorporated area and is a defined contiguous geographic area;

(b) has a population of less than 2,500 according to the most recent federal census;

(c) derives more than 50% of its economic well-being from businesses catering to the recreational and personal needs of persons traveling to or through the area for purposes not related to their income production and excluding economic activity from health care, schools, government, and other services that primarily benefit residents; and

(d) has been designated by the department of commerce as a resort area not more than 2 years prior to its establishment by the county commissioners as provided in 7-6-1508.

(8) "Resort area district" means a district created under 7-6-1532 through 7-6-1536, 7-6-1539 through 7-6-1544, 7-6-1546 through 7-6-1548, and 7-6-1550 that has been established as a resort area under 7-6-1508.

(9) "Resort community" means a community that:

(a) is an incorporated municipality;

(b) has a population of less than 5,500 according to the most recent federal census;

(c) derives more than 50% of its economic well-being related to current employment from businesses catering to the recreational and personal needs of persons traveling to or through the municipality for purposes not related to their income production and excluding economic activity from health care, schools, government, and other services that primarily benefit residents; and

(d) has been designated by the department of commerce as a resort community not more than 2 years before the petition of the electors or resolution of the governing body."

Section 2. Coordination instruction. If both Senate Bill No. 172 and [this act] are passed and approved and Senate Bill No. 172 includes a section that amends 7-6-1503, then the section in Senate Bill No. 172 amending 7-6-1503 is void and 7-6-1503 must be amended as follows:

"7-6-1503. Limit on resort tax rate – goods and services subject to tax. (1) (a) Except as provided in subsection (1)(b), the rate of the resort tax must be established by the election petition or resolution provided for in 7-6-1504, but the rate may not exceed 3%.

(b) (i) Subject to subsection (1)(b)(ii), an election petition or resolution provided for in 7-6-1504 may provide for an additional resort tax levy at the rate of up to 1%. The revenue from the additional tax must be used to provide funding for infrastructure.

(ii) A resort community with a population that exceeds the population limit for a resort community in 7-6-1501 may not levy the additional resort tax provided for in subsection (1)(b)(i) *unless the resort community was established before January 1, 2025.*

(2) (a) The resort tax is a tax on the retail value of all goods and services sold, except for goods and services sold for resale, within the resort community or area by the following establishments:

(i) hotels, motels, and other lodging or camping facilities;

(ii) restaurants, fast food stores, and other food service establishments;

(iii) taverns, bars, night clubs, lounges, and other public establishments that serve beer, wine, liquor, or other alcoholic beverages by the drink; and

(iv) destination ski resorts and other destination recreational facilities.

(b) Establishments that sell luxuries shall collect a tax on such luxuries."

Section 3. Coordination instruction. If both Senate Bill No. 172 and [this act] are passed and approved, then the sections of Senate Bill No. 172 amending 7-6-1504, 7-6-1541, and 7-6-1542 are void.

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 426

[HB 171]

AN ACT GENERALLY REVISING THE ALFALFA SEED INDUSTRY ACT; ELIMINATING THE MONTANA ALFALFA SEED COMMITTEE AND TRANSFERRING CERTAIN DUTIES TO THE DEPARTMENT OF AGRICULTURE; REVISING DEFINITIONS; ELIMINATING THE ALFALFA SEED INDUSTRY ACT; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 80-6-1102, 80-6-1106, 80-6-1109, AND 80-6-1111, MCA; REPEALING SECTIONS 2-15-3004, 80-6-1101, 80-6-1103, 80-6-1104, 80-6-1105, 80-6-1107, 80-6-1108, 80-6-1110, 80-6-1112, 80-11-301, 80-11-302, 80-11-303, 80-11-304, AND 80-11-305, 80-11-307, 80-11-308, 80-11-309, 80-11-310, 80-11-311, 80-11-312, AND 80-11-313, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-6-1102, MCA, is amended to read:

“80-6-1102. Definitions. As used in this part, the following definitions apply:

(1) “Bee” means any stage in the life cycle of a bee of the species *Megachile rotundata* (F), commonly known as the alfalfa leaf-cutting bee.

(2) “Certification” means the process of analyzing bees and equipment by the committee to determine whether they meet required standards.

(3) “Chalkbrood” means a fungal disease that attacks larvae of the alfalfa leaf-cutting bee.

(4) “Committee” means the Montana alfalfa seed committee established in 2-15-3004.

(5)(2) “Department” means the department of agriculture established in 2-15-3001.

(6)(3) “Equipment” means shelters, trays, incubators, cell removers, tumblers, and other apparatus, except nesting materials, used in rearing bees.

(7) “Nest destroyer” means any organism that competes with the bee larvae for nest provisions.

(8)(4) “Nesting materials” means laminates, drilled boards, and other apparatus used in nesting bees.

(9) “Parasite” means an organism living in or on any stage of the alfalfa leaf-cutting bee obtaining nutriment from the body of the bee.

(10) “Pathogen” means an organism that causes disease in the alfalfa leaf-cutting bee.

(11)(5) “Person” means an individual, association, partnership, or corporation.

(12) “Predator” means any organism or insect that preys on, devours, or destroys bees or nests.

(13) “Wild trap” means to intentionally trap bees on property not owned or leased by the trapper.”

Section 2. Section 80-6-1106, MCA, is amended to read:

“80-6-1106. Bee laboratory authorized. The committee department or its agent may develop and maintain a laboratory for the purpose of providing analytical services required to carry out the provisions of this part. The laboratory may be authorized by the committee department to provide services to persons possessing any bees or equipment on a fee-for-service basis.”

Section 3. Section 80-6-1109, MCA, is amended to read:

“80-6-1109. Fees to be set by rule – account established. (1) Fees authorized to be charged by this part must be set by *committee department* rule. ~~The fees must be designed, when combined with other revenue sources available to the committee, to reimburse the committee for costs incurred in providing services and carrying out its duties under this part.~~

(2) There is an account in the state special revenue fund known as the leaf-cutting bee account for use by the *committee department*. The account is made up of:

(a) fees collected under this part; and

~~(b) money collected as part of the alfalfa seed assessment provided for in 80-11-307 and allocated to the account by the committee; and~~

~~(c)(b)~~ any grants, donations, or gifts made to the *committee department* and designated by the *committee* for the purposes of this part.

(3) The *committee department* may direct the board of investments to invest money from the account pursuant to the provisions of the unified investment program. The income from investments must be credited to the leaf-cutting bee account.”

Section 4. Section 80-6-1111, MCA, is amended to read:

“80-6-1111. Alfalfa leaf-cutting bees – registration. (1) A person may not possess or control alfalfa leaf-cutting bees in this state unless the bees are registered as provided in this section.

(2) To register bees, a person shall file a completed application form provided by the department, together with the registration fee set by rule. The applicant shall provide the following:

(a) the name and place of residence;

(b) the general location of bees to be registered; and

(c) other relevant information as may be required by *committee department* rule.

(3) A registration is continuous until the registrant notifies the *committee department* of cancellation.”

Section 5. Repealer. The following sections of the Montana Code Annotated are repealed:

80-11-307. Assessment on alfalfa seed.

80-11-308. Payment of assessment.

Section 6. Repealer. The following sections of the Montana Code Annotated are repealed:

2-15-3004. Montana alfalfa seed committee -- composition -- allocation.

80-6-1101. Short title.

80-6-1103. Committee responsibilities -- adoption of rules.

80-6-1104. Advisory duty of committee.

80-6-1105. Alfalfa leaf-cutting bees -- certification.

80-6-1107. Restrictions on importing bees.

80-6-1108. Restrictions on rearing, moving, and trapping of bees and movement of equipment.

80-6-1110. Violation -- penalty.

80-6-1112. Funding limitation.

80-11-301. Short title.

80-11-302. Findings -- purpose.

80-11-303. Definitions.

80-11-304. Powers of the committee.

80-11-305. Compensation -- per diem.

80-11-309. Refund of assessment.

80-11-310. Deposit and disbursement of funds -- investment.

80-11-311. Records required.

80-11-312. Penalty for nonpayment.

80-11-313. Penalty.

Section 7. Transfer of funds. Before June 30, 2026, the department of agriculture shall transfer unexpended or unobligated funds in the alfalfa seed account to the general fund.

Section 8. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2025.

(2) [Sections 1 and 6] are effective July 1, 2026.

Approved May 5, 2025

CHAPTER NO. 427

[HB 178]

AN ACT LIMITING THE USE OF ARTIFICIAL INTELLIGENCE SYSTEMS BY STATE AND LOCAL GOVERNMENT; PROHIBITING CERTAIN USES OF ARTIFICIAL INTELLIGENCE SYSTEMS; REQUIRING DISCLOSURE OF CERTAIN USES OF ARTIFICIAL INTELLIGENCE SYSTEMS; REQUIRING CERTAIN DECISIONS OR RECOMMENDATIONS TO BE REVIEWED BY A HUMAN IN AN APPROPRIATE RESPONSIBLE POSITION; AND PROVIDING DEFINITIONS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 4], unless the context clearly indicates otherwise, the following definitions apply:

(1) “Artificial intelligence system” means a machine learning-based system that, for any explicit or implicit objective, infers from the inputs the system receives how to generate outputs, including but not limited to content, decisions, predictions, and recommendations that can influence physical or virtual environments.

(2) “Cognitive behavioral manipulation” means the use of artificial intelligence systems to influence or alter an individual’s or group’s thoughts, emotions, decisions, or actions through deceptive, coercive, or subliminal means, or by exploiting psychological vulnerabilities, without the informed consent of the individual or group being influenced.

(3) “Government entity” has the same meaning as provided in 46-5-110.

(4) “Human in an appropriate responsible position” means a human person who is a state officer or a public employee as those terms are defined in 2-2-102 who has reasonable training in the uses and limitations of artificial intelligence systems and is in a position to modify or reject the particular use of an artificial intelligence system.

(5) “Peace officer” has the same meaning as provided in 45-2-101.

(6) “State officer” has the same meaning as provided in 2-2-102.

Section 2. Prohibited use of artificial intelligence by government entity. A government entity or state officer may not use an artificial intelligence system:

(1) for the cognitive behavioral manipulation of a person or group;

(2) to classify a person or group based on behavior, socioeconomic status, or personal characteristics resulting in unlawful discrimination or a disparate impact on a person or group based on an actual or perceived differentiating characteristic;

(3) for a malicious purpose; or

(4) for surveillance of public spaces, except:

(a) to locate a missing, endangered, or wanted person; or

(b) in conformity with Title 44, chapter 15, part 1, regarding continuous facial surveillance.

Section 3. Required disclosures by government entities – exemption. (1) Except as provided in subsection (2):

(a) if a government entity or state officer publishes material produced by an artificial intelligence system that is not reviewed by a human in an appropriate responsible position, the material must be accompanied by a disclosure that the material was produced by an artificial intelligence system; and

(b) if a government entity or state officer has an interface with the public that uses an artificial intelligence system, the use of the artificial intelligence system in the interface must be disclosed.

(2) A peace officer acting in the peace officer's official capacity to investigate crimes is exempt from a disclosure requirement in subsection (1) when the disclosure may result in:

- (a) endangerment of the life or physical safety of an individual;
- (b) flight from prosecution;
- (c) destruction or tampering with evidence;
- (d) intimidation of potential witnesses; or
- (e) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

Section 4. Required review. If an artificial intelligence system produces a recommendation or decision for a government entity or state officer that could impact the rights, duties, or privileges and immunities of a person, the recommendation or decision must be reviewed and is subject to rejection or modification by a human in an appropriate responsible position.

Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 2, and the provisions of Title 2 apply to [sections 1 through 4].

Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved May 5, 2025

CHAPTER NO. 428

[HB 194]

AN ACT GENERALLY REVISING LAWS RELATED TO JURIES; REVISING REQUIREMENTS FOR NOTICE AND SUMMONS TO JURORS; REVISING REQUIREMENTS FOR MOTIONS TO DISCHARGE A JURY PANEL; AMENDING SECTIONS 3-15-405, 3-15-411, 3-15-501, AND 46-16-112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-15-405, MCA, is amended to read:

“3-15-405. Notice to jurors. The clerk of court shall serve notice by mail on the persons drawn as jurors ~~and require the persons to respond by mail as to their qualifications to serve as jurors.~~ The clerk of court may attach to the notice a jury questionnaire and a form for an affidavit claiming an excuse from service provided for in 3-15-313. ~~If a person fails to respond to the notice, the clerk shall certify the failure to the sheriff, who shall serve the notice personally on the person and make reasonable efforts to require the person to respond to the notice.”~~

Section 2. Section 3-15-411, MCA, is amended to read:

“3-15-411. Term of service of jurors. (1) The persons ~~whose names are so returned are known as regular jurors and~~ *noticed* must serve for 1 year and until other persons are selected and returned unless they are excused by the court or a judge pursuant to 3-15-501.

(2) ~~If~~ *Except as provided in subsection (3), if* jurors are drawn before the selection and return of the new jury list as provided in this part and ~~thereafter~~ a new jury list is *subsequently* returned, they shall continue to serve as jurors, if the business of the court requires the attendance of a jury, for a period not exceeding 90 days.

(3) ~~Notwithstanding such limitation of service, a~~ A jury composed of such jurors ~~duly~~ impaneled to try any cause shall continue to serve in ~~such the~~ cause until discharged by the court ~~from any further consideration of such cause, even if this causes the term of service to exceed 1 year.~~ The fact that a new jury list has been returned ~~shall may~~ not affect their status as jurors.”

Section 3. Section 3-15-501, MCA, is amended to read:

“3-15-501. Order directing that trial jury be drawn and summoned.

(1) If a civil or criminal case has been at issue and ready for trial for more than 6 months and the plaintiff or defendant has requested a jury trial or whenever the business of a district court requires the attendance of a trial jury for the trial of civil or criminal cases and a jury is not in attendance, the court shall order a trial jury to be drawn and summoned to attend before the court. The order must specify the number of jurors to be drawn. The time at which the jurors are required to attend is at the discretion of the court.

(2) The court may direct that a criminal or civil proceeding in which a jury may be required or may have been demanded be continued and fixed for trial at a time when a jury will be in attendance.

(3) The judge or judges of a district or the judge of a department may designate that jury service in the district or department is on a “one-day or one-trial” basis; that is, each individual juror is excused for the rest of the year after having attended for 1 day and not having been selected to serve at the trial of a particular cause or after having completed service at a trial.

(4) If the number of unexcused jurors is not sufficient to meet current requirements at any time, jurors excused under subsection (3) may be required to serve.

(5) *The clerk of court shall send a summons to a person selected as a juror drawn pursuant to 3-15-503. If not sent with the notice provided for in 3-15-405, the summons must include the jury questionnaire as to the person’s qualifications to serve as a juror and a form for an affidavit claiming an excuse from service provided for in 3-15-313. The person shall respond as required in the summons as to their qualifications to serve as a juror.*

(6) *If a person fails to respond to the summons, the clerk of court shall attempt to contact a nonresponding person by telephone or other electronic communication.*

(7) *If a person fails to respond to the summons and the clerk of court has completed the actions required in subsection (6), the clerk of court shall certify the failure to the sheriff, who shall make reasonable efforts to require the person to appear on the date required by the summons.*

(8) *For the purposes of subsection (7), “reasonable efforts” include any two of the following actions:*

(a) publishing the list of persons who failed to respond in or on any of the following:

(i) a newspaper of general circulation;

(ii) a web-based news site; or

(iii) government-controlled or government-sponsored social media or web pages for the specific jurisdiction;

(b) attempted contact by telephone;

(c) attempted contact by other electronic communication;

(d) posting a physical notice at a last-known address;

(e) attempted personal service; or

(f) attempted contact by United States postal service first-class mail.

(9) Failure by the clerk of court or the sheriff to strictly adhere to the provisions of this section may not constitute grounds to invalidate a jury pool or a jury.”

Section 4. Section 46-16-112, MCA, is amended to read:

“46-16-112. Motion to discharge jury panel. (1) Any objection to the manner in which a jury panel has been selected, ~~or drawn, notified, or summoned~~ must be raised by a motion to discharge the jury panel. Except for good cause shown, the motion must be made at least 5 days prior to the ~~term~~ *start of the trial* for which the jury is ~~drawn~~ *impaneled*. *To demonstrate good cause for the failure to raise a timely challenge, a party shall demonstrate that the party made a diligent and timely effort to investigate the manner in which the jury panel was selected, drawn, notified, or summoned.*

(2) The motion must be in writing supported by affidavit and must state facts that show that the jury panel was improperly selected, ~~or drawn, notified, or summoned~~.

(3) If the motion states facts that show that the jury panel has been improperly selected, ~~or drawn, notified, or summoned~~, it is the duty of the court to conduct a hearing. The burden of proof is on the movant.

(4) If the court finds that the jury panel was improperly selected, ~~or drawn, notified, or summoned~~, the court shall order the jury panel discharged and the selection ~~or~~ drawing of a new panel in the manner provided by law.

(5) *A motion to discharge a jury must be founded only on a material departure from the law in respect to the selection, drawing, notification, or summoning of the jury panel.”*

Section 5. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 6. Effective date. [This act] is effective on passage and approval.

Section 7. Applicability. [This act] applies to jury pools noticed on or after May 1, 2026.

Approved May 5, 2025

CHAPTER NO. 429

[HB 206]

AN ACT REVISING LAWS RELATED TO THE PRESENTATION OF AN ELECTRICIAN'S LICENSE; AND AMENDING SECTION 37-68-315, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-68-315, MCA, is amended to read:

“37-68-315. Presentation of license. (1) ~~An employee of a private or public employment agency or labor union, a~~ *A building code compliance inspector in compliance with 50-60-302, an employee of the department, a person who is professionally responsible for a the job site, or an electrician*

~~licensed under this chapter, or an electrician licensed under this chapter who is working on the same job site~~ has the right to ask a person who is working at a jobsite doing work that requires an electrician's license to present the person's license. If the person performing the work is unable to furnish the person's license, the requesting person may report that fact to the board or the department.

(2) An employee of the department may issue a citation to and collect a fine, as provided in 37-68-316, from a person at a jobsite where the person is performing electrical work if the person fails to display an electrician's license at the request of the department employee."

Approved May 5, 2025

CHAPTER NO. 430

[HB 242]

AN ACT REVISING FINES FOR ILLEGALLY TRANSPORTING AQUATIC INVASIVE SPECIES; AND AMENDING SECTION 80-7-1014, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-7-1014, MCA, is amended to read:

"80-7-1014. Penalty. (1) ~~Except as provided in subsection (2), the~~ *Except as provided in subsection (2), the* following penalties apply:

(a) The offense of negligently violating the provisions of 80-7-1010 through 80-7-1012 and 80-7-1015 or rules adopted under 80-7-1010 through 80-7-1012 and 80-7-1015 pertaining to an invasive species management area or the statewide invasive species management area is a misdemeanor punishable by a fine not to exceed ~~\$500~~ \$700 for the first offense and ~~\$750~~ \$1,400 for subsequent offenses.

(b) The offense of purposely or knowingly violating the provisions of 80-7-1010 through 80-7-1012 and 80-7-1015 or rules adopted under 80-7-1010 through 80-7-1012 and 80-7-1015 pertaining to an invasive species management area or the statewide invasive species management area is a misdemeanor punishable by a fine not to exceed ~~\$975~~ \$1,950. In addition, the person shall forfeit the following as issued by this state:

(i) any current fishing license and the privilege to fish in this state for a period of time set by the court; and

(ii) any current sticker or decal required under this part to operate a vessel on the waters of this state.

(c) Purposely or knowingly attempting to introduce an invasive species in Montana is a felony. Any person found guilty under this subsection (1)(c) is subject to a criminal penalty of up to 2 years in prison, a fine not to exceed ~~\$10,000~~ \$25,000, or both. A person convicted of violating this subsection (1)(c) may also be required to surrender an involved vessel and pay restitution for any cost incurred to mitigate the effect of the violation.

(d) A civil penalty not to exceed \$2,500 may be imposed on any person who violates any other provision of 80-7-1010 through 80-7-1012 and 80-7-1015 or rules adopted under 80-7-1010 through 80-7-1012 and 80-7-1015 not enumerated in subsections (1)(a) through (1)(c).

~~(2) A warning without penalty may be issued to any person violating the provisions of 80-7-1010 through 80-7-1012 and 80-7-1015 or rules adopted under 80-7-1010 through 80-7-1012 and 80-7-1015 if it is determined that a warning best serves the public interest.~~

(2) *A warning without penalty may be issued to any person violating the provisions of 80-7-1010 through 80-7-1012 and 80-7-1015 or rules adopted under 80-7-1010 through 80-7-1012 and 80-7-1015 if it is determined that a warning best serves the public interest.*

(3) *No penalty may be issued to any person violating the provisions of 80-7-1011 if clear and adequate signage is not posted a reasonable distance from the check station.*

(3)(4) Civil penalties collected under this section must be deposited in the general fund.”

Approved May 5, 2025

CHAPTER NO. 431

[HB 250]

AN ACT GENERALLY REVISING EDUCATION LAWS RELATED TO OUT-OF-DISTRICT ATTENDANCE; CLARIFYING THE TUITION AND TRANSPORTATION RESPONSIBILITIES OF A DISTRICT OF RESIDENCE FOR A CHILD WITH A DISABILITY; CLARIFYING AND CONSOLIDATING PROVISIONS RELATED TO TRANSPORTATION RESPONSIBILITIES; ALLOWING TRUSTEES TO DENY AN OUT-OF-DISTRICT ATTENDANCE REQUEST IF ACCEPTING THE REQUEST WOULD JEOPARDIZE THE DISTRICT'S ACCREDITATION STATUS AND FOR STUDENTS WHO HAVE BEEN SUSPENDED; CLARIFYING THE TUITION RESPONSIBILITIES FOR A NONOPERATING SCHOOL DISTRICT; CLARIFYING PRORATED TUITION FOR PARTIAL-YEAR ATTENDANCE; REVISING THE OUT-OF-DISTRICT REPORTING REQUIREMENTS BY SCHOOL DISTRICTS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION; CLARIFYING REMOTE INSTRUCTION FOR STUDENTS ATTENDING OUT-OF-DISTRICT; REMOVING THE REQUIREMENT THAT A STUDENT SEEK REMOTE INSTRUCTION FROM THE NEAREST SCHOOL DISTRICT OFFERING THE REMOTE INSTRUCTION; AMENDING SECTIONS 20-5-320, 20-5-322, 20-5-323, 20-5-324, 20-7-118, 20-7-421, AND 20-9-505, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-5-320, MCA, is amended to read:

“20-5-320. Out-of-district attendance by parent or guardian request with no extenuating circumstances. (1) A child may be enrolled in and attend a school in a Montana school district that is outside of the child's district of residence at the request of the child's parent or guardian as described in this section. ~~If the trustees of the district of attendance approve of the child's attendance in a school of the district, the parent or guardian may be responsible for transportation.~~

(2) (a) Whenever a parent or guardian of a child wishes to have the child attend a school under the provisions of this section, the parent or guardian shall apply to the trustees of the district where the child wishes to attend.

(b) The application must be made on an out-of-district attendance agreement form supplied by the district and developed by the superintendent of public instruction. The attendance agreement must set forth the financial obligations, if any, for costs incurred for transporting the child ~~under as provided in 20-5-323 and Title 20, chapter 10. Unless otherwise agreed by the~~

~~district of residence and the district of attendance, the family of a nonresident child whose application for attendance has been approved is responsible for transportation of the child and the child is not an eligible transportee as defined in 20-10-101. The district of attendance may discretionarily provide transportation pursuant to 20-10-122.~~

(c) The trustees of the district of attendance may adopt policies for the application process, including but not limited to reasonable timelines for the submission of applications.

(d) The trustees of the district of attendance shall serve children who are residents of the district and nonresident children seeking enrollment under 20-5-321 prior to enrolling children under this section.

(e) In reviewing and determining whether to approve an application for attendance by a nonresident child, the trustees of the district of attendance shall approve the application unless the trustees find that the impact of approval of the application will negatively impact the quality of education for resident pupils by grade level, by school, or in the district in the aggregate in one or more of the following ways:

(i) the approval would result in exceeding limits of:

(A) building construction standards pursuant to Title 50, chapter 60;

(B) capacity and ingress and egress elements, either by individual room or by school building, of any fire code authorized by Title 50, chapter 3; or

(C) maximum student contact hours for a teacher of the class or maximum class sizes under accreditation standards of the board of public education; or

~~(C)~~*(D)* evacuation elements of the district's adopted school safety plan;

(ii) the approval would impede meeting goals, standards, or objectives of quality that the trustees have previously adopted in a plan for continuous educational improvement required under rules adopted by the board of public education; or

(iii) the approval would risk jeopardizing the educational quality within the district because the nonresident child who is applying was:

(A) truant as defined in 20-5-106 in the last school district attended;

(B) expelled by another school district at any time; or

(C) suspended in another school or out of school in any school district in which the nonresident child was enrolled in any of the 3 school fiscal years preceding the school fiscal year for which attendance is requested. This subsection (2)(e)(iii)(C) does not apply to a student who is eligible for special education or related services.

(f) The trustees of a district that receives more applications than the district can accommodate under subsections (2)(e)(i) and (2)(e)(ii) may adopt and implement policy providing priority among the applications on any rational basis that prioritizes the quality of education for students who are residents of the district of attendance and the obligations of resident taxpayers.

(3) This section does not preclude the trustees of a district from approving an attendance agreement for educational program offerings not provided by the resident district, such as the kindergarten or grades 7 and 8 programs, if the trustees of both districts agree to the terms and conditions for attendance and any transportation requirement. The tuition requirements under 20-5-323 and 20-5-324 apply to agreements under this subsection. For purposes of this subsection, the trustees of the resident district shall initiate the out-of-district agreement.

(4) As used in 20-5-320 through 20-5-324, the term "guardian" means the guardian of a minor as provided in Title 72, chapter 5, part 2."

Section 2. Section 20-5-322, MCA, is amended to read:

“20-5-322. Residency determination – notification – appeal for attendance agreement. (1) For the purposes of 20-5-320 through 20-5-324, except as provided in 20-9-707, a child’s district of residence must be determined on the basis of the provisions of 1-1-215.

(2) Within 10 days of the initial application for an agreement, the trustees of the district of attendance shall notify the parent or guardian of the child and the trustees of the district of residence involved in the out-of-district attendance agreement of the anticipated date for approval or disapproval of the agreement.

(3) Within 10 days of approval or disapproval of an out-of-district attendance agreement, the trustees of the district of attendance shall:

(a) provide copies of the approved or disapproved attendance agreement to the parent or guardian and to the child’s district of residence. In the case of a disapproval, the trustees shall provide the specific allowable reason for the disapproval pursuant to 20-5-320(2)(e) or 20-5-321(4) and supporting documentation.

(b) for an approved agreement, provide a copy of the completed agreement to the county superintendent of schools of the county of residence; *and* the county superintendent of schools of the county of attendance; ~~and the superintendent of public instruction.~~

(4) If an out-of-district attendance agreement is disapproved or no action is taken, the parent or guardian may appeal the disapproval or lack of action to the county superintendent of the district of attendance and, subsequently, to the superintendent of public instruction under the provisions for the appeal of controversies pursuant to 20-3-107 and 20-3-210.

(5) For purposes of payment under 20-5-324(2), a nonresident student who becomes a resident by reaching 18 years of age during the school year may continue to have tuition paid on the student’s behalf for the duration of the student’s enrollment in the district for that school year.”

Section 3. Section 20-5-323, MCA, is amended to read:

“20-5-323. Tuition and transportation – ~~rates~~ – transportation.

(1) (a) Except as provided in subsections (1)(b), (1)(c), and (2) through (5), whenever a child enrolls in and attends a school outside of the child’s district of residence under the provisions of 20-5-320 or 20-5-321, the district of residence shall pay the district of attendance a percentage equal to the lesser of the percentage of either school district’s adopted general fund budget funded by BASE and over-BASE property tax levies in the year of attendance not to exceed 35.3% of the tuition per-ANB amount for the year of attendance as described in 20-5-324.

(b) *If the district of residence is a nonoperating district, the required tuition is the percentage of the adopted general fund budget funded by BASE and over-BASE property taxes in the district of attendance in the year of attendance, not to exceed 35.3% of the tuition per-ANB amount for the year of attendance as described in 20-5-324.*

(c) *Tuition amounts for partial-year attendance, including midyear changes in residency under 1-1-215, must be prorated for the portion of the year the student is enrolled as a nonresident student, based on the percentage calculated by dividing the number of days the student is enrolled by the number of pupil instruction days scheduled by the school district of attendance in the year of attendance.*

(2) Except for the tuition paid by the district of residence *and the superintendent of public instruction* under 20-5-324(2)(b), *the district of residence shall pay the district of attendance as described in 20-5-324 the tuition for a child with a disability, and the amount of tuition must be the regular*

rate under subsection (1), plus the special education tuition rate determined by the district of attendance under rules adopted by the superintendent of public instruction for the calculation of tuition for special education pupils. The rules must provide:

(a) that tuition amounts must be reduced by the funding generated by the district of attendance due to the child's attendance; and

(b) an option for tuition set at the actual unique costs of providing a free appropriate public education.

(3) The state-paid tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) in addition to the tuition paid by the district of residence under 20-5-324(2)(b) for a student without disabilities who requires a program with costs that exceed the average district costs must be determined as the actual individual costs of providing that program according to the following:

(a) the district of attendance and the district or entity responsible for the tuition payments shall approve an agreement for the tuition cost;

(b) for a Montana resident student, 120% of the tuition per-ANB amount, received in the year for which the tuition charges are calculated, must be subtracted from the per-student program costs for a Montana resident student; and

(c) the maximum tuition rate paid to a district under this subsection (3) may not exceed \$2,500 per student.

(4) When a child attends a public school of another state or province, the amount of daily tuition may not be greater than the average annual cost for each student in the child's district of residence. This calculation for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal year. For the purposes of this subsection, the following do not apply:

(a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;

(b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;

(c) an order issued under Title 40, chapter 4, part 2; or

(d) out-of-state placement by a state agency.

(5) When a child is placed by a state agency in an out-of-state residential facility, the state agency making the placement is responsible for the education costs resulting from the placement.

(6) (a) *An attendance agreement established under 20-5-320 or 20-5-321 must set forth the financial obligations, if any, for costs incurred for transportation as provided in this subsection (6) and Title 20, chapter 10.*

(b) *If the attendance agreement is for a child with a disability who has transportation included in the child's individualized education program, transportation or the costs of transportation must be paid by the child's district of residence.*

(c) *Except as provided in subsection (6)(b) and unless otherwise agreed to in the out-of-district attendance agreement:*

(i) *when a child has approval to attend a school outside the child's district of residence because of a parent's or guardian's request under the provisions of 20-5-320 or 20-5-321(1)(c), the parent or guardian of the child is responsible for transportation and the child is not an eligible transportee as defined in 20-10-101. The district of attendance may discretionarily provide transportation for a child who is not an eligible transportee pursuant to 20-10-122.*

(ii) *when a child attends a school outside the child's district of residence under the provisions of 20-5-321(1)(a) or (1)(b), the district of residence is responsible for transportation; and*

(iii) *when a child attends a school outside the child's district of residence under the provisions of 20-5-321(1)(d) or (1)(e), the district of attendance is responsible for transportation consistent with and subject to the provisions of 20 U.S.C. 6312(c)(5).*

(d) The amount, if any, charged for transportation may not exceed ~~the lesser of the average transportation cost for each student in the child's district of residence or 35 cents a mile.~~ The average expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing the transportation fund expenditures by the October 1 enrollment count for the preceding fiscal year.

(7) As used in this section, "tuition per-ANB amount" means the applicable per-ANB maximum rate established in 20-9-306, plus the per-ANB amounts of the instructional block grant and related services block grant under 20-9-321."

Section 4. Section 20-5-324, MCA, is amended to read:

"20-5-324. Tuition payment provisions – state obligations – district obligations – financing – reporting. (1) In order to be eligible to receive state reimbursement or payment under subsection (2)(a), the trustees of a district shall report to the superintendent of public instruction by June 30 the following information for the concluding school fiscal year:

(a) the name and district of residence of each child who attended a school of the district under a mandatory out-of-district attendance agreement approved under the provisions of 20-5-321(1)(d) or (1)(e);

(b) the number of days of enrollment for each child reported under the provisions of subsection (1)(a);

(c) the annual tuition rate for each child's tuition payment, as determined under the provisions of 20-5-323, and the tuition cost for each child reported under the provisions of subsection (1)(a);

(d) the names, districts of attendance, and amount of tuition paid by the district for resident students attending public schools out of state; and

(e) the names, schools of attendance, and amount of tuition to be paid by the district for resident students attending day-treatment programs under approved individualized education programs at private, nonsectarian schools.

(2) (a) Subject to the limitations of 20-5-323, the superintendent of public instruction shall:

(i) except as provided in subsection (2)(b) of this section, pay the district of attendance the amount of the tuition obligation reported under subsection (1)(c) of this section, prorated for the actual days of enrollment;

(ii) determine the total per-ANB entitlement for which the district of residence would have been eligible if the students reported in subsections (1)(d) and (1)(e) of this section had been enrolled in the resident district in the prior year; and

(iii) reimburse the district of residence for the state portion of the per-ANB entitlement for each student reported in subsections (1)(d) and (1)(e) of this section, not to exceed the district's actual payment of tuition or fees for service for the student in the previous year.

(b) The district of residence for each child reported under the provisions of subsection (1)(a) of this section shall pay the district of attendance the tuition rate under 20-5-323(1) prorated for the actual days of enrollment. The superintendent of public instruction is only responsible for any additional tuition amount pursuant to 20-5-323(2) and (3).

(3) Whenever a child enrolls in and attends a school outside of the child's district of residence under the provisions of 20-5-320 or 20-5-321, by July 15 following the year of attendance, the district of attendance shall notify the district of residence of an obligation under 20-5-323.

(4) (a) (i) When a child attends a school outside the child's district of residence at the resident district's expense under the provisions of 20-5-320 or 20-5-321 or when a child has approval to attend a day-treatment program under an approved individualized education program at a private, nonsectarian school located in or outside of the child's district of residence, the district of residence shall finance any tuition amount required under 20-5-323 from the levy authorized to support the district tuition fund or from the district's general fund or any other legally available fund in the discretion of the trustees and any transportation amount from the levy authorized to support the transportation fund or from the district's general fund or any other legally available fund in the discretion of the trustees. *If the district of residence is a nonoperating school district, the district shall use the nonoperating fund and impose applicable levies required to satisfy any tuition and transportation obligations.*

(ii) By December 31 of the school fiscal year following the year of attendance, the district of residence shall pay at least one-half of any tuition and transportation obligation established under ~~subsection (4)(a)(i) this part.~~ The remaining tuition and transportation obligation must be paid by June 15 of the school fiscal year following the year of attendance.

~~(iii)(b)~~ In addition to use of a tuition levy to pay tuition for out-of-district attendance of a resident pupil, a school district may also include in its tuition levy an amount necessary to pay for the full costs of providing a free appropriate public education, as defined in 20-7-401, in the district to any child with a disability who lives in the district. The amount of the levy imposed for the costs associated with educating each child with a disability under this subsection ~~(4)(a)(iii)~~ (4)(b) is limited to the actual cost of service under the child's individualized education program minus:

- ~~(A)(i)~~ the student's state special education payment;
- ~~(B)(ii)~~ the student's federal special education payment;
- ~~(C)(iii)~~ the student's per-ANB amount;
- ~~(D)(iv)~~ the prorated portion of the district's basic entitlement for each qualifying student; and
- ~~(E)(v)~~ the prorated portion of the district's general fund payments in 20-9-327 through 20-9-330 for each qualifying student.

~~(b) When a child has approval to attend a school outside the child's district of residence because of a parent's or guardian's request under the provisions of 20-5-320 or 20-5-321(1)(c), the parent or guardian of the child is responsible for transportation unless otherwise agreed to in the out-of-district attendance agreement.~~

(5) (a) Except as provided in subsection (5)(b), the district of attendance shall anticipate and credit tuition receipts to the district general fund, to reduce the general fund net levy requirement first to the BASE budget and any remaining to the over-BASE budget pursuant to 20-9-141, and transportation receipts to the transportation fund. In order to provide local property tax reduction for the tuition amount received under 20-5-323(1), the amount of the reduction in the BASE budget mills levied as a result of anticipated tuition payments must be calculated as a final step in computing the district's general fund net BASE levy requirement pursuant to the procedure set forth in 20-9-141(2) and the district's guaranteed tax base aid must be calculated prior to the reduction in BASE mills.

(b) Any tuition receipts received for a pupil who is a child with a disability under 20-5-323(2) or for a student without disabilities who requires a program with costs that exceed the average district costs under 20-5-323(3) that exceed the tuition amount received for a pupil without disabilities must be deposited in the district miscellaneous programs fund and must be used in the manner provided for in 20-9-507 to support the costs of the program for which the tuition was received.

(6) The reimbursements paid under subsection (2)(a)(iii) must be deposited into the district tuition fund and must be used by the district to pay obligations for resident students attending public schools out of state or for resident students attending day-treatment programs under approved individualized education programs at private, nonsectarian schools at district expense.

(7) The provisions of this section do not apply to out-of-state placements made by a state agency pursuant to 20-7-422.

(8) (a) In accordance with 5-11-210, the superintendent of public instruction shall report annually to the education interim committee on out-of-district attendance under 20-5-320 through 20-5-324 in the prior school fiscal year. The report must include the following for each school district:

(a)(i) the total enrollment of the district;

(b)(ii) the number of nonresident students served by the district under out-of-district attendance agreements, *broken down by district of residence*; and

(c)(iii) the number of resident students served by other school districts under out-of-district attendance agreements, *broken down by district of attendance*.

(b) *School districts shall provide the superintendent of public instruction with the information necessary to comply with this subsection (8) in a manner prescribed by the superintendent that must minimize the reporting burden on school districts.*

Section 5. Section 20-7-118, MCA, is amended to read:

“20-7-118. Remote instruction. (1) A school district may provide remote instruction, including the provision of services through electronic means. A district shall comply with any rules adopted by the board of public education that specify standards for remote instruction. The provision of remote instruction by a district is limited to pupils:

(a) meeting the residency requirements for that district as provided in 1-1-215;

(b) living in the district and eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; **or**

(c) *enrolled in the district and physically attending a school or offsite instructional setting of the district under an attendance agreement pursuant to Title 20, chapter 5, part 3; or*

(d) seeking remote instruction in ~~the nearest~~ *another* district when the pupil's district of residence does not provide remote or in-person instruction in an equivalent course. A course is not equivalent if the course does not provide the same level of advantage on successful completion, including but not limited to dual credit, advanced placement, and career certification.

(2) A school of a district providing remote instruction shall provide remote instruction to an out-of-district pupil under subsection ~~(1)(c)~~ *(1)(d)* unless, because of class size restrictions, the accreditation of the school would be adversely impacted by providing remote instruction to the pupil.

(3) (a) *A district providing remote instruction shall include pupils in enrollment counts for ANB calculation purposes as described in 20-9-311.*

(b) Except as provided in subsection (1)(c) of this section, the provisions of out-of-district attendance and tuition laws under Title 20, chapter 5, part 3, do not apply to remote instruction.

~~(3)(4)~~ The superintendent of public instruction shall adopt rules for the administration and enforcement of this section.”

Section 6. Section 20-7-421, MCA, is amended to read:

“20-7-421. Arranging attendance in another district in lieu of a special education program – tuition. (1) In accordance with a placement decision made by persons determining an individualized education program for a child with a disability, the trustees may arrange for the attendance of a child in need of special education and related services in another district within the state of Montana.

~~(2) Tuition and transportation as required under 20-5-323 may be charged as provided in 20-7-420. Financial obligations for tuition and transportation for a child with a disability attending a school district other than the child’s resident school district are governed by Title 20, chapter 5, part 3.”~~

Section 7. Section 20-9-505, MCA, is amended to read:

“20-9-505. Purpose and establishment of nonoperating fund.

(1) The trustees of a district that will not operate a school during the ensuing school fiscal year shall establish a nonoperating fund on the first day of the school fiscal year. In establishing the nonoperating fund, the trustees shall cause the transfer of the end-of-the-year fund balance of each fund maintained by the district during the immediately preceding school fiscal year to the nonoperating fund. However, fund balances of the debt service fund and the miscellaneous programs fund, if any, must be maintained in their individual funds.

(2) The trustees of a district establishing a nonoperating fund for the first year of nonoperation may earmark a portion of the nonoperating fund balance as a nonoperating fund operating reserve when they anticipate the reopening of a school in the following school fiscal year. The operating reserve may not be more than the general fund operating reserve designated for the immediately preceding school fiscal year. If a school is not operated in the following school fiscal year, the authority of the trustees to earmark a nonoperating fund operating reserve terminates and the money earmarked as an operating reserve must be used to reduce the levy requirement of the nonoperating fund. If the trustees acquire approval to reopen a school in the following school fiscal year under the provisions of 20-6-502 or 20-6-503 and operate the school, the nonoperating fund operating reserve must be restored as the general fund operating reserve.

(3) The purpose of the nonoperating fund is to centralize the financing and budgeting for the limited functions of a district not operating a school. The functions include:

- (a) elementary tuition obligations to other districts;
- (b) transportation of the resident pupils;
- (c) maintenance of district-owned property; and
- (d) any other nonoperating school function of the district considered necessary by the trustees or required by law.

(4) Any expenditure of nonoperating fund money must be made in accordance with the financial administration provisions of this title for a budgeted fund.”

Section 8. Effective date. [This act] is effective July 1, 2025.

Section 9. Coordination instruction. If House Bill No. 156 and [this act] are both passed and approved, then [section 3(1)(b) of this act], amending 20-5-323, is void and must be replaced with:

“(b) If the district of residence is a nonoperating district, the required tuition is the percentage of the adopted general fund budget funded by over-BASE property taxes in the district of attendance in the year of attendance, not to exceed 20% of the tuition per-ANB amount for the year of attendance as described in 20-5-324.”

Section 10. Applicability. [This act] applies to out-of-district attendance agreements for school fiscal years beginning on or after July 1, 2025.

Approved May 5, 2025

CHAPTER NO. 432

[HB 259]

AN ACT REVISING LAWS RELATED TO THE MANAGEMENT OF GRAY WOLVES; REQUIRING THE FISH AND WILDLIFE COMMISSION TO APPLY DIFFERENT TECHNIQUES FOR THE MANAGEMENT OF GRAY WOLVES; ALLOWING THE USE OF THERMAL AND INFRARED SCOPES FOR GRAY WOLF MANAGEMENT; AMENDING SECTION 87-1-901, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-1-901, MCA, is amended to read:

“87-1-901. Gray wolf management -- rulemaking -- reporting.

(1) Except as provided in subsection (3), the commission shall establish by rule hunting and trapping seasons for wolves with the intent to reduce the wolf population in this state to a sustainable level, but not less than the number of wolves necessary to support at least 15 breeding pairs. Trapping seasons must allow for the use of snares by the holder of a trapping license.

(2) For game management purposes, the commission ~~may~~ *shall* apply different management techniques depending on the conditions in each administrative region, with the most liberal harvest regulations applied in regions with the greatest number of wolves. In doing so, the commission ~~may~~ *may* authorize:

(a) the issuance of more than one Class E-1 or Class E-2 wolf hunting license to an applicant;

(b) the trapping or snaring of more than one wolf by the holder of a trapping license;

(c) the harvest of an unlimited number of wolves by the holder of a single wolf hunting or wolf trapping license;

(d) during the wolf trapping season, the use of bait while hunting or trapping wolves as long as no trap or snare trap is set within 30 feet of exposed bait visible from above; and

(e) the hunting of wolves on private lands outside of daylight hours with the use of artificial light, ~~or~~ night vision scopes, *infrared scopes, or thermal imagery scopes*.

(3) The commission shall adopt rules to allow a landowner or the landowner's agent to take a wolf on the landowner's property at any time without the purchase of a Class E-1 or Class E-2 wolf license when the wolf is a potential threat to human safety, livestock, or dogs. The rules must:

(a) be consistent with the Montana gray wolf conservation and management plan and the adaptive management principles of the commission and the department for the Montana gray wolf population;

(b) require a landowner or the landowner's agent who takes a wolf pursuant to this subsection (3) to promptly report the taking to the department and to preserve the carcass of the wolf;

(c) establish a quota each year for the total number of wolves that may be taken pursuant to this subsection (3); and

(d) allow the commission to issue a moratorium on the taking of wolves pursuant to this subsection (3) before a quota is reached if the commission determines that circumstances require a limitation of the total number of wolves taken.

(4) Public land permittees who have experienced livestock depredation must obtain a special kill permit authorized in 87-5-131(3)(b) to take a wolf on public land without the purchase of a Class E-1 or Class E-2 license.

(5) The department shall report annually to the environmental quality council in accordance with 5-11-210 regarding the implementation of 87-5-131, 87-5-132, and this section."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved September 29, 2025

CHAPTER NO. 433

[HB 264]

AN ACT REVISING LAWS RELATED TO WILDLIFE LOCATION DATA AND TELEMETRY FREQUENCIES; PROVIDING PROHIBITIONS AND EXCEPTIONS ON THE RELEASING OF DATA BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; AND AMENDING SECTION 2-6-1003, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Wildlife location data and telemetry frequencies – data-sharing agreements. (1) Except as provided in subsections (2) through (5) or as otherwise provided by law, the department may not release wildlife location data or telemetry frequencies, whether collected by the department or held by the department, of hunted or trapped animals.

(2) Wildlife location data used as part of a study that includes a completion report may be released 1 year after the completion of the study and report.

(3) Wildlife location data that is not used as part of a study may be released 1 year after the department collects or acquires the data.

(4) The department may release wildlife location data for environmental permitting activities.

(5) Subject to the restrictions in subsections (2) and (3), the department may share wildlife location data with project partners and other government agencies through data-sharing agreements.

Section 2. Section 2-6-1003, MCA, is amended to read:

"2-6-1003. Access to public information – safety and security exceptions – Montana historical society exception additional exceptions. (1) Except as provided in subsections (2) and (3) through (4), every person has a right to examine and obtain a copy of any public information of this state.

(2) A public officer may withhold from public scrutiny information relating to individual or public safety or the security of public facilities, including public schools, jails, correctional facilities, private correctional facilities, and prisons, if release of the information jeopardizes the safety of facility personnel, the public, students in a public school, or inmates of a facility. A public officer may

not withhold from public scrutiny any more information than is required to protect individual or public safety or the security of public facilities.

(3) The Montana historical society may honor restrictions imposed by private record donors as long as the restrictions do not apply to public information. All restrictions must expire no later than 50 years from the date the private record was received. ~~Upon~~ *On* the expiration of the restriction, the private records must be made accessible to the public.

(4) Except as provided in [section 1], the department of fish, wildlife, and parks, and any party with whom the department has shared the information under a data-sharing agreement pursuant to [section 1], may not release wildlife location data or telemetry frequencies of hunted or trapped animals.

~~(4)(5)~~ A public agency may not refuse to disclose public information because the requested public information is part of litigation or may be part of litigation unless the information is protected from disclosure under another applicable law.”

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 87, chapter 1, part 2, and the provisions of Title 87, chapter 1, part 2, apply to [section 1].

Approved May 5, 2025

CHAPTER NO. 434

[HB 280]

AN ACT REPEALING THE INTERAGENCY COORDINATING COUNCIL FOR STATE PREVENTION PROGRAMS; ELIMINATING REPORTING REQUIREMENTS; AND REPEALING SECTION 2-15-225, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. The following section of the Montana Code Annotated is repealed:
2-15-225. Interagency coordinating council for state prevention programs.

Approved May 5, 2025

CHAPTER NO. 435

[HB 299]

AN ACT REVISING PURPOSES FOR WHICH PUBLIC USE EASEMENTS MAY BE GRANTED ON STATE LAND; AMENDING SECTIONS 77-2-101, 77-2-102, AND 77-2-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 77-2-101, MCA, is amended to read:

“77-2-101. Easements for specific uses. ~~(1)~~ Upon proper application as provided in 77-2-102(1) through (5), the board may grant easements on state lands for the following purposes:

~~(1)~~ *public uses described in 70-30-102;*

~~(a)~~ *(2) schoolhouse sites and grounds;*

~~(b)~~ *(3) public parks;*

~~(4)~~ *public trails;*

~~(e)~~ *(5) community buildings;*

~~(d)~~ *(6) cemeteries;*

(e)(7) conservation purposes:

(i)(a) to the department of fish, wildlife, and parks for parcels that are surrounded by or adjacent to land owned by the department of fish, wildlife, and parks as of January 1, 2001; *and*

(ii)(b) to a nonprofit corporation for parcels that are surrounded by or adjacent to land owned by that same nonprofit corporation as of January 1, 2001; *and*

(iii) to a nonprofit corporation for the Owen Sowerwine natural area located within section 16, township 28 north, range 21 west, in Flathead County; *and*
(f) for other public uses:

~~(2) The board may grant easements on state lands for the following purposes:~~

~~(a)(8) right-of-way across or upon on any portion of state lands for any public highway or street; or for any canal, ditch, flume, aqueduct, pipe, reservoir, railroad, private road, telephone line, or water conveyance for irrigation purposes; or any other public use as defined in 70-30-102;~~

~~(b)(9) any private building or private sewage system that encroaches on state lands;~~

~~(c)(10) pursuant to 77-1-1112 or 77-1-1115, the use of the bed of a navigable river; or~~

~~(d)(11) pursuant to 77-2-102(6), private access roads, county roads, and utility facilities constructed on state lands prior to October 1, 1997."~~

Section 2. Section 77-2-102, MCA, is amended to read:

"77-2-102. Application for easement – survey exemptions.

(1) Application for an easement on state land must be made to the department. Except as provided in subsections (3) through (5), the application must describe the proposed right-of-way according to survey, show the necessity for the proposed highway or street or other easement, and give any additional information that the department requires.

(2) This application must be accompanied by two exact copies of the official plat of the proposed highway, street, or other easement, verified by the affidavit of the engineer or surveyor who prepared the application. These plats must show the quantity of land taken by the proposed highway or street or other easement for each 40-acre tract or government lot of state land over or through which it passes and also the amount of land remaining in each portion of that 40-acre tract or government lot. When considered necessary by the department, these plats must show all these facts for smaller subdivisions as the circumstances may render desirable for the state.

(3) The application must include the affidavit of a licensed engineer or professional surveyor stating that the methodology used is known to be accurate to within 5 meters. The survey must be tied to an established section corner or 1/4 corner monument. The department may request greater accuracy if the department determines that the information is needed to adequately describe the easement.

(4) If the purpose of the right-of-way applied for is the transmission or distribution of electrical energy or the construction and operation of pipelines or telephone, telegraph, or radio systems, the plats and measurements need not be given. An exact geographical survey is not required, but the application must include the description of the location of the center line of the right-of-way that refers to an established monument within a filed corner recordation form, certificate of survey, or subdivision plat. The accuracy requirements of subsection (3) must be met. The entire right-of-way may be applied for in one application with only one plat of the entire right-of-way required. An

archaeological survey is not required if, in the opinion of the department, heritage property would not be impacted.

(5) (a) If the purpose of the right-of-way applied for is a regional water authority provided for in Title 75, chapter 6, part 3, the plats and measurements need not be given. An exact geographical survey is not required, but the application must include the description of the location of the center line of the right-of-way.

(b) The application provided for in subsection (5)(a) must be accompanied by electronic global positioning system data in the Montana coordinate system, the easement location depicted on a topographical map to a scale of 1:24,000, easement coordinates, and the quantity of land taken in each quarter-quarter section.

(6) (a) The department may waive survey requirements for rights-of-way or easements provided for in ~~77-2-101(2)(d)~~ *77-2-101(11)* when there is sufficient information to define the boundaries of the right-of-way or easement to record the right-of-way or easement.

(b) An application for a private access road to private property must include:

(i) a description of appurtenant private lands historically accessed by the access road;

(ii) aerial photographs or images by an agency of the United States government dated prior to October 1, 1997, that depict the access road; and

(iii) easement location depicted on a topographical map to a scale of 1:24,000.

(c) An application for an existing county road must include:

(i) documentation establishing the road pursuant to Title 7, chapter 14, part 26;

(ii) aerial photographs or images by an agency of the United States government dated prior to October 1, 1997, that depict the county road; and

(iii) easement location depicted on a topographical map to a scale of 1:24,000.

(d) An application for an existing public utility infrastructure must include:

(i) evidence of installation prior to October 1, 1997, through submission of plant staking sheets, photographic evidence of dated infrastructure tags, or similar evidence; and

(ii) easement location depicted on a topographical map to a scale of 1:24,000.”

Section 3. Section 77-2-105, MCA, is amended to read:

“77-2-105. Termination of easements. Whenever lands granted for any of the purposes mentioned in ~~77-2-101(2)~~ *77-2-101(8) through (11)* cease to be used for those purposes, the easement terminates upon notice to that effect to the person to whom the grant was made, served at the person’s last-known post-office address.”

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 436

[HB 317]

AN ACT REPEALING THE STATUTORY REQUIREMENT FOR A MEMORANDUM OF UNDERSTANDING BETWEEN THE BOARD OF REGENTS AND THE IDAHO COLLEGE OF OSTEOPATHIC MEDICINE; REPEALING SECTION 20-25-811, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. The following section of the Montana Code Annotated is repealed:

20-25-811. Idaho college of osteopathic medicine cooperative medical education program.

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 437

[HB 323]

AN ACT ALLOWING A COUNTY TO PROVIDE COMPENSATION TO RESERVE DEPUTY SHERIFF'S OFFICERS; AND AMENDING SECTION 7-4-2503, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-4-2503, MCA, is amended to read:

"7-4-2503. Salary schedule for certain county officers – county compensation board. (1) (a) The salary paid to the county treasurer, county clerk and recorder, clerk of the district court, county assessor, county superintendent of schools, county sheriff, county surveyor in counties where county surveyors receive salaries as provided in 7-4-2812, justice of the peace, county coroner, and county auditor in all counties in which the office is authorized must be established by the county governing body based upon the recommendations of the county compensation board provided for in subsection (4).

(b) Except as provided in subsection (2), the annual salary established pursuant to subsection (1)(a) must be uniform for all county officers referred to in subsection (1)(a).

(2) (a) An elected county superintendent of schools must receive, in addition to the salary based upon subsection (1), the sum of \$400 a year, except that an elected county superintendent of schools who holds a master of arts degree or a master's degree in education, with an endorsement in school administration, from a unit of the Montana university system or an equivalent institution may, at the discretion of the county commissioners, receive, in addition to the salary based upon subsection (1), up to \$2,000 a year.

(b) The county sheriff must receive, in addition to the salary based upon subsection (1), the sum of \$2,000 a year. The additional salary provided in this subsection (2)(b) must be included as salary for the purposes of computing the compensation for undersheriffs and deputy sheriffs as provided in 7-4-2508.

(c) In addition to the salary provided for in subsections (1) and (2)(b), the county sheriff may receive any additional salary as determined by the board of county commissioners. The additional salary provided in this subsection (2)(c) must be included as salary for the purposes of computing the compensation for undersheriffs and deputy sheriffs as provided in 7-4-2508.

(d) The county sheriff must receive a longevity payment amounting to 1% of the salary determined under subsections (1) and (2)(b) for each year of service with the sheriff's office. The payment, nonpayment, increase, lack of increase, or decrease of the discretionary salary under subsection (2)(c) has no impact on the longevity payment. The additional salary amount provided for in this subsection may not be included in the salary for purposes of computing the compensation for undersheriffs and deputy sheriffs as provided in 7-4-2508.

(e) If the clerk and recorder is also the county election administrator, the clerk and recorder may receive, in addition to the base salary provided in subsection (1)(a), up to \$2,000 a year. The additional salary provided for in this subsection (2)(e) may not be included as salary for the purposes of computing the compensation of any other county officers or employees.

(f) The county treasurer, clerk of district court, and justice of the peace may each receive, in addition to the base salary provided in subsection (1)(a), up to \$2,000 a year. The additional salary provided for in this subsection (2)(f) may not be included as salary for the purposes of computing the compensation of any other county officers or employees.

(g) The county coroner may be a part-time position, and the salary may be set accordingly.

(h) The justice of the peace for a justice's court of record may receive, in addition to the base salary provided in subsection (1)(a), compensation up to an amount allowed by 3-10-207.

(i) A reserve deputy sheriff's officer may be compensated in a manner determined by the board of county commissioners.

(3) (a) Subject to subsection (3)(b), the salary for the county attorney must be set as provided in subsection (4).

(b) If the uniform base salary set for county officials pursuant to subsection (1) is increased, then the county attorney is entitled to at least the same increase unless the increase would cause the county attorney's salary to exceed the salary of a district court judge.

(c) (i) After completing 4 years of service as deputy county attorney, each deputy county attorney is entitled to an increase in salary of \$1,000 on the anniversary date of employment as deputy county attorney. After completing 5 years of service as deputy county attorney, each deputy county attorney is entitled to an additional increase in salary of \$1,500 on the anniversary date of employment. After completing 6 years of service as deputy county attorney and for each year of additional service up to completion of the 11th year of service, each deputy county attorney is entitled to an additional annual longevity salary increase of \$500 or a greater amount based on the schedule developed and recommended by the county compensation board as provided in subsection (4). Any additional annual longevity salary increase provided for in this section after the 11th year of service may not exceed the amount provided in the schedule developed and recommended by the county compensation board.

(ii) The years of service accumulated after the 11th year of service as a deputy county attorney prior to July 1, 2015, may not be included in the calculation of the longevity increases by the county compensation board under this section.

(iii) The years of service as a deputy county attorney accumulated prior to July 1, 1985, must be included in the calculation of the longevity increase.

(4) (a) There is a county compensation board consisting of:

(i) the county commissioners;

(ii) three of the county officials described in subsection (1) appointed by the board of county commissioners;

(iii) the county attorney;

(iv) two to four resident taxpayers appointed initially by the board of county commissioners to staggered terms of 3 years, with the initial appointments of one or two taxpayer members for a 2-year term and one or two taxpayer members for a 3-year term; and

(v) (A) subject to subsection (4)(a)(v)(B), one resident taxpayer appointed by each of the three county officials described in subsection (4)(a)(ii).

(B) The appointments in subsection (4)(a)(v)(A) are not mandatory.

(b) The county compensation board shall hold hearings annually for the purpose of reviewing the compensation paid to county officers. The county compensation board may consider the compensation paid to comparable officials in other Montana counties, other states, state government, federal government, and private enterprise.

(c) The county compensation board shall prepare a compensation schedule for the elected county officials, including the county attorney, for the succeeding fiscal year. The schedule must take into consideration county variations, including population, the number of residents living in unincorporated areas, assessed valuation, motor vehicle registrations, building permits, and other factors considered necessary to reflect the variations in the workloads and responsibilities of county officials as well as the tax resources of the county.

(d) A recommended compensation schedule requires a majority vote of the county compensation board, and at least two county commissioners must be included in the majority. A recommended compensation schedule may not reduce the salary of a county officer that was in effect on May 1, 2001.

(e) The provisions of this subsection (4) do not apply to a county that has adopted a charter form of government or to a charter, consolidated city-county government.”

Approved May 5, 2025

CHAPTER NO. 438

[HB 332]

AN ACT REVISING THE YOUTH COURT ACT; ENUMERATING ADDITIONAL OFFENSES BY A YOUTH THAT MAY BE FILED IN DISTRICT COURT; ALLOWING A YOUTH TO WAIVE THE RIGHT TO A TRANSFER HEARING; PROVIDING REMEDIES WHEN A YOUTH FAILS THE TERMS OF A CONSENT ADJUSTMENT; REVISING LAWS RELATED TO CONSENT DECREES; PROVIDING A DEFINITION; AND AMENDING SECTIONS 41-5-206, 41-5-208, 41-5-1302, 41-5-1501, AND 41-5-1605, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 41-5-206, MCA, is amended to read:

“41-5-206. Filing in district court prior to formal proceedings in youth court. (1) The county attorney may, in the county attorney’s discretion and in accordance with the procedure provided in 46-11-201, file with the district court a motion for leave to file an information in the district court if:

(a) the youth charged was 12 years of age or older at the time of the conduct alleged to be unlawful and the unlawful act would if it had been committed by an adult constitute:

(i) *aggravated sexual intercourse without consent as defined in 45-5-508;*

(~~ii~~)(ii) sexual intercourse without consent as defined in 45-5-503;

(~~ii~~)(iii) deliberate homicide as defined in 45-5-102;

(~~iii~~)(iv) mitigated deliberate homicide as defined in 45-5-103;

(~~iv~~)(v) assault on a peace officer or judicial officer as defined in 45-5-210(1)(b)(i), (1)(c), or (1)(d); or

(~~v~~)(vi) the attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for ~~either deliberate or mitigated deliberate homicide~~ any of the acts enumerated in subsection (1)(a)(i) through (1)(a)(v); or

(b) the youth charged was 16 years of age or older at the time of the conduct alleged to be unlawful and the unlawful act is one or more of the following:

(i) negligent homicide as defined in 45-5-104;

(ii) *negligent vehicular homicide while under the influence as defined in 45-5-106;*

(iii) *assault on a peace officer or judicial officer as defined in 45-5-210(1)(a) or (1)(b)(ii);*

~~(ii)(iv)~~ *arson as defined in 45-6-103;*

~~(iii)(v)~~ *aggravated assault as defined in 45-5-202;*

~~(iv)(vi)~~ *sexual assault as provided in 45-5-502(3);*

~~(v)(vii)~~ *assault with a weapon as defined in 45-5-213;*

~~(viii)~~ *strangulation of a partner or family member as defined in 45-5-215;*

~~(vi)(ix)~~ *robbery as defined in 45-5-401;*

~~(vii)(x)~~ *burglary or aggravated burglary as defined in 45-6-204;*

~~(xi)~~ *kidnapping as defined in 45-5-302;*

~~(viii)(xii)~~ *aggravated kidnapping as defined in 45-5-303;*

~~(ix)(xiii)~~ *possession of explosives as defined in 45-8-335;*

~~(x)(xiv)~~ *criminal distribution of dangerous drugs as defined in 45-9-101;*

~~(xi)~~ *criminal possession of dangerous drugs as defined in 45-9-102(3);*

~~(xii)(xv)~~ *criminal possession with intent to distribute as defined in 45-9-103(1);*

~~(xiii)(xvi)~~ *criminal production or manufacture of dangerous drugs as defined in 45-9-110;*

~~(xiv)(xvii)~~ *use of threat to coerce criminal street gang membership or use of violence to coerce criminal street gang membership as defined in 45-8-403;*

~~(xv)(xviii)~~ *escape as defined in 45-7-306;*

~~(xix)~~ *aggravated sex trafficking as defined in 45-5-706;*

~~(xx)~~ *child sex trafficking as defined in 45-5-711;*

~~(xxi)~~ *ritual abuse of a minor as defined in 45-5-627;*

~~(xvi)(xxii)~~ *attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for any of the acts enumerated in subsections (1)(b)(i) through (1)(b)(xv) (1)(b)(xxi).*

(2) The county attorney shall file with the district court a petition for leave to file an information in district court if the youth was 17 years of age at the time the youth committed an offense listed under subsection (1).

(3) The district court shall grant leave to file the information if it appears from the affidavit or other evidence supplied by the county attorney that there is probable cause to believe that the youth has committed the alleged offense. Within 30 days after leave to file the information is granted, the district court shall conduct a hearing to determine whether the matter must be transferred back to the youth court, unless the hearing is waived by the youth or by the youth's counsel in writing or on the record. The hearing may be continued on request of either party for good cause. The district court may not transfer the case back to the youth court unless the district court finds, by a preponderance of the evidence, that:

(a) a youth court proceeding and disposition will serve the interests of community protection;

(b) the nature of the offense does not warrant prosecution in district court; and

(c) it would be in the best interests of the youth if the matter was prosecuted in youth court.

(4) The filing of an information in district court terminates the jurisdiction of the youth court over the youth with respect to the acts alleged in the information. A youth may not be prosecuted in the district court for a criminal offense originally subject to the jurisdiction of the youth court unless the case has been filed in the district court as provided in this section. A case may be transferred to district court after prosecution as provided in 41-5-208 or 41-5-1605.

~~(5) An offense not enumerated in subsection (1) that arises during the commission of a crime enumerated in subsection (1) may be:~~

~~(a) tried in youth court;~~

~~(b) transferred to district court with an offense enumerated in subsection (1) upon motion of the county attorney and order of the district court. The district court shall hold a hearing before deciding the motion.~~

~~(5) At any time prior to trial, the county attorney may transfer the case to youth court for good cause.~~

~~(6) (a) If, during the commission of a criminal offense enumerated in subsection (1), a youth commits additional criminal offenses that are not enumerated in subsection (1), the county attorney may file those nonenumerated offenses with the same district court.~~

~~(b) If a youth is found guilty in district court of a criminal offense enumerated in subsection (1) and any offense that arose during the commission of a crime enumerated in subsection (1), the court shall sentence the youth pursuant to 41-5-2503 and Titles 45 and 46.~~

~~(c) If a youth is acquitted in district court of all criminal offenses enumerated in subsection (1), the district court shall sentence the youth in district court pursuant to Title 41 for any remaining offenses for which the youth is found guilty.~~

~~(6)(7) If a youth is found guilty in district court of an offense enumerated in subsection (1) and any offense that arose during the commission of a crime enumerated in subsection (1), the court shall sentence the youth pursuant to 41-5-2503 and Titles 45 and 46. If a youth is acquitted in district court of all offenses enumerated in subsection (1), the district court shall sentence the youth pursuant to Title 41 for any remaining offense for which the youth is found guilty. A youth who is sentenced to the department or a state prison must be evaluated and placed by the department in an appropriate correctional facility. The department shall confine the youth in an institution that it considers proper, including a correctional facility under the procedures of 52-5-111. However, a youth under 16 years of age may not be confined in a state prison facility. During the period of confinement, school-aged youth with disabilities must be provided an education consistent with the requirements of the federal Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.~~

~~(7)(8) If a youth's case is filed in the district court and remains in the district court after the transfer hearing, the youth may be detained in a jail or other adult detention facility pending final disposition of the youth's case if the youth is kept in an area that provides physical separation from adults accused or convicted of criminal offenses.:~~

~~(a) the youth is kept in an area that provides sight and sound separation from adults accused or convicted of criminal offenses; and~~

~~(b) the court finds, after a hearing and in writing, that it is in the interest of justice to hold the youth in an adult jail or adult detention facility based on:~~

~~(i) the youth's:~~

~~(A) age;~~

~~(B) physical and mental maturity; and~~

~~(C) present mental state, including whether the youth presents an imminent risk of harm to the youth's self or others;~~

~~(ii) the nature and circumstances of the alleged offense;~~

~~(iii) the youth's history of prior delinquent acts;~~

~~(iv) the relative ability of the available adult and juvenile detention facilities to meet the specific needs of the youth and protect the safety of the public as well as other detained youth; and~~

~~(v) any other relevant factor.~~

(9) *If the court finds, based on the criteria in subsection (8)(b), that it is in the interest of justice to detain a youth under the jurisdiction of district court in an adult jail or adult detention facility pending the final disposition of the youth's case, the court must:*

(a) hold a hearing at least once every 30 days to review whether it is still in the interest of justice to require the youth to continue to be held in an area of a secure adult facility that provides sight and sound separation from adults accused or convicted of criminal offenses;

(b) hold an additional hearing before the youth has been detained for 180 days to determine, in writing, if there is good cause for an extension unless the youth expressly waives this limitation."

Section 2. Section 41-5-208, MCA, is amended to read:

"41-5-208. Transfer of supervisory responsibility to district court after juvenile disposition -- nonextended jurisdiction and nontransferred cases. (1) *(a) After adjudication by the court of a case that was not transferred sentenced to district court under pursuant to 41-5-206 and that was not prosecuted as an extended jurisdiction juvenile prosecution under part 16 of this chapter, the court may, on the youth's motion or the motion of the county attorney, transfer jurisdiction to the district court and order the transfer of supervisory responsibility from juvenile probation services to adult probation services. A transfer based on a motion may be made at any time after a youth reaches 18 years of age but before the youth reaches 21 years of age.*

(b) A transfer under this section may be made to ensure continued compliance with the court's disposition under 41-5-1512 or 41-5-1513 and may be made at any time after a youth reaches 18 years of age but before the youth reaches 21 years of age or through stipulation to provide the youth with additional supervision, care, rehabilitation, detention, competency development, and community protection.

(2) Before transfer, the court shall hold a hearing on whether the transfer should be made. The hearing must be held in conformity with the rules on a hearing on a petition alleging delinquency, except that the hearing must be conducted by the court without a jury. The court shall give the youth, the youth's counsel, and the youth's parents, guardian, or custodian notice in writing of the time, place, and purpose of the hearing at least 10 days before the hearing. At the hearing, the youth is entitled to receive:

(a) written notice of the motion to transfer;

(b) an opportunity to be heard in person and to present witnesses and evidence;

(c) a written statement by the court of the evidence relied on and reasons for the transfer;

(d) the right to cross-examine witnesses, unless the court finds good cause for not allowing confrontation; and

(e) the right to counsel.

(3) After the hearing, if the court finds by a preponderance of the evidence that transfer of continuing supervisory responsibility to the district court is appropriate, the court shall order the transfer.

(4) If a youth whose case has been transferred to district court under this section violates a disposition previously imposed under 41-5-1512 or 41-5-1513, the district court may, after hearing, impose conditions as provided under 46-18-201 through 46-18-203 but may not place a youth in a state adult correctional facility unless the youth was adjudicated for a felony offense.

(5) (a) The hearings under subsections (2) and (4) may be waived by the youth through a stipulation in writing prior to or after an adjudication by the court of a case that was not:

(i) sentenced in district court pursuant to 41-5-206; or
(ii) prosecuted as an extended jurisdiction juvenile prosecution under part 16 of this chapter.

(b) Jurisdiction must automatically transfer to the district court, and supervisory responsibility must automatically transfer to adult probation services on the youth turning 18 years of age. The district court may impose conditions as provided under 46-18-201 through 46-18-203, but the youth may not be incarcerated in a state adult correctional facility unless stipulated by the parties.

(c) The stipulation provided for in subsection (5)(a) must:

(i) advise the youth of their rights to a hearing pursuant to subsections (2) and (4);

(ii) advise the youth that the youth is knowingly and voluntarily waiving the right to hearings;

(iii) advise the youth of the youth's right to counsel; and

(iv) specify the age the youth is to be supervised by adult probation services, up to 25 years of age.

(5)(6) If, at the time of transfer, the youth is incarcerated in a correctional facility, the district court may order that the youth, after reaching 18 years of age:

(a) be incarcerated in a state adult correctional facility if the youth was adjudicated for a felony offense, boot camp, or prerelease center; or

(b) be supervised by the department.

(6)(7) The district court's jurisdiction over a case transferred under this section terminates when the youth reaches 25 years of age."

Section 3. Section 41-5-1302, MCA, is amended to read:

"41-5-1302. Consent adjustment without petition. (1) Before referring the matter to the county attorney and subject to the limitations in subsection (3), the juvenile probation officer or assessment officer may enter into a consent adjustment and give counsel and advice to the youth, the youth's family, and other interested parties if it appears that:

(a) the admitted facts bring the case within the jurisdiction of the youth court;

(b) the youth and the youth's family have been advised of the youth's right to counsel;

(b)(c) counsel and advice without filing a petition would be in the best interests of the child, the family, and the public; and

(e)(d) the youth may be a youth in need of intervention and the juvenile probation officer or assessment officer believes that the parents, foster parents, physical custodian, or guardian exerted all reasonable efforts to mediate, resolve, or control the youth's behavior and the youth continues to exhibit behavior beyond the control of the parents, foster parents, physical custodian, or guardian.

(2) Any probation or other disposition imposed under this section against a youth must conform to the following procedures:

(a) Every Each consent adjustment must be reduced to writing and signed by the youth, the youth's legal counsel if applicable, and the youth's parents or the person having legal custody of the youth.

(b) If the juvenile probation officer or assessment officer believes that the youth is a youth in need of intervention, the juvenile probation officer or assessment officer shall determine that the parents, foster parents, physical custodian, or guardian exerted all reasonable efforts to mediate, resolve, or control the youth's behavior and that the youth continues to exhibit behavior

beyond the control of the parents, foster parents, physical custodian, or guardian.

(c) Approval by the youth court judge is required if the complaint alleges commission of a felony or if the youth has been or will be in any way detained.

(3) A consent adjustment without petition under this section may not be used to dispose of a youth's alleged second or subsequent offense if:

(a) the youth has admitted commission of or has been adjudicated or sentenced for a prior offense that would be a felony if committed by an adult;

(b) the second or subsequent offense would be a felony if committed by an adult and was committed within 3 years of a prior offense; or

(c) the second or subsequent offense would be a misdemeanor if committed by an adult and was committed within 3 years of a prior offense, other than a felony, unless the juvenile probation officer notifies the youth court and obtains written approval from the county attorney and the youth court judge.

(4) For purposes of subsection (3), related offenses committed by a youth during the same 24-hour period must be considered a single offense.

(5) (a) *If the youth fails to fulfill the expressed terms and conditions of a consent adjustment, either prior to discharge by probation services or expiration of the consent adjustment, the county attorney may file a petition to:*

(i) *charge the youth to be a delinquent youth pursuant to Title 41, chapter 5; or*

(ii) *revoke the consent adjustment with the youth court.*

(b) *If a petition to revoke the consent adjustment is filed pursuant to subsection (5)(a)(ii) and the youth court finds that the youth violated the consent adjustment, the youth court may adjudicate the youth pursuant to 41-5-1512. A revocation of a consent adjustment must follow the procedures as set forth in 41-5-1431."*

Section 4. Section 41-5-1501, MCA, is amended to read:

"41-5-1501. Consent decree with petition. (1) (a) Subject to the provisions of subsection (2), after the filing of a petition under 41-5-1402 and before the entry of a judgment, ~~the court may, on motion of counsel for the youth or on the court's own motion, suspend the proceedings and continue the youth under supervision under terms and conditions negotiated with probation services and agreed to by all necessary parties. The court's order continuing the youth under supervision under this section is known as a "consent decree"~~ *the county attorney, the youth's legal counsel, probation services, and the necessary parties may enter into a consent decree.* Except as provided in subsection (1)(b), the procedures used and dispositions permitted under this section must conform to the procedures and dispositions specified in 41-5-1302 through 41-5-1304 relating to consent adjustments without petition.

(b) A youth may be placed in detention for up to 10 days on a space-available basis at the county's expense, which is not reimbursable under part 19 of this chapter.

(2) A consent decree under this section may not be ~~used~~ *accepted* by the youth court unless:

(a) the youth ~~admits guilt~~ *enters an admission of guilt* for a ~~charge of~~ an offense set forth in the petition and ~~accepts responsibility for the youth's actions;~~

(b) *the youth waives the youth's right to a jury trial;*

(c) *the youth court questions the youth to ensure that the youth knowingly and voluntarily enters the admission and waives the right to a jury trial; and*

(d) *if the youth is not represented by legal counsel, the youth court questions the youth to ensure that the youth knowingly and voluntarily waives the right to counsel.*

(3) If the youth or the youth's counsel objects to a consent decree, the court shall proceed to findings, adjudication, and disposition of the case.

(4) (a) If, either prior to discharge by probation services or expiration of the consent decree, a new petition alleging that the youth is a delinquent youth or a youth in need of intervention is filed against the youth or if the youth fails to fulfill the expressed terms and conditions of the consent decree, ~~the petition under which the youth was continued under supervision may be reinstated in the discretion of the county attorney in consultation with probation services. In the event of reinstatement, the proceeding on the petition must be continued to conclusion as if the consent decree had never been entered a petition to revoke the consent decree may be filed with the youth court at the discretion of the county attorney but in consultation with probation services.~~

(b) *Probation services is given discretion to extend a consent decree prior to a petition to revoke a consent decree being filed. In the event of revocation and on a finding by the youth court that the youth violated a consent decree, the youth court shall proceed to adjudication and disposition of the case pursuant to 41-5-1513. A revocation of a consent decree must follow the procedures as set forth in 41-5-1431.*

(5) A youth who is discharged by probation services or who completes a period under supervision without ~~reinstatement of the original petition a petition to revoke the consent decree being filed~~ may not again be ~~proceeded against adjudicated again~~ in any court for the same offense alleged in the petition, and the original petition must be dismissed with prejudice. This subsection does not preclude a civil suit against the youth for damages arising from the youth's conduct.

(6) If the terms of the consent decree extend for a period in excess of 6 months, the juvenile probation officer shall at the end of each 6-month period submit a report that must be reviewed by the court.

(7) A consent decree with petition under this section may not be used to dispose of a youth's alleged second or subsequent offense if that offense would be a felony if committed by an adult or third or subsequent offense if that offense would be a misdemeanor if committed by an adult unless it is recommended by the county attorney and accepted by the youth court judge.

(8) *For the purposes of this section, "consent decree" means an agreement to defer adjudication of the youth as delinquent youth and places the youth on supervision with probation services for a certain amount of time."*

Section 5. Section 41-5-1605, MCA, is amended to read:

"41-5-1605. Revocation of stay -- disposition. (1) If a court has imposed on a youth a sentence stayed under 41-5-1604(1)(a)(ii) and the youth violates the conditions of the stay or is alleged to have committed a new offense, the court may, without notice, direct that the youth be taken into immediate custody. The court shall notify the youth, the youth's counsel, and the youth's parents, guardian, or custodian in writing of the reasons alleged to exist for revocation of the stay of execution of the sentence.

(2) (a) The court shall hold a revocation hearing at which the youth is entitled to receive:

- (i) written notice of the alleged violation;
- (ii) evidence of the alleged violation;
- (iii) an opportunity to be heard in person and to present witnesses and evidence;
- (iv) the right to cross-examine witnesses, unless the court finds good cause for not allowing confrontation; and
- (v) the right to counsel.

(b) After the revocation hearing, if the court finds by a preponderance of the evidence presented that the conditions of the stay have been violated or that the youth has committed a new offense, the court shall provide the youth with a written statement of the evidence relied on and reasons for revocation and shall:

(i) continue the stay and place the youth on probation;

(ii) impose one or more dispositions under 41-5-1512 or 41-5-1513 if the youth is under 18 years of age; or

(iii) subject to ~~41-5-206(6) and (7)~~ 41-5-206(7) and (8) and 41-5-1604(1)(b), order execution of the sentence imposed under 41-5-1604(1)(a)(ii). The court shall order credit for any time served prior to revocation under a disposition under 41-5-1604(1)(a)(i).

(3) Upon revocation and disposition under subsection (2)(b)(iii), the youth court shall transfer the case to the district court. Upon transfer, the offender's extended jurisdiction juvenile status is terminated and youth court jurisdiction is terminated. Ongoing supervision of the offender is with the department, rather than the youth court's juvenile probation services."

Approved May 5, 2025

CHAPTER NO. 439

[HB 338]

AN ACT REVISING LAWS RELATED TO EARLY LITERACY TARGETED INTERVENTIONS TO INCLUDE NUMERACY AND ALLOW GREATER FLEXIBILITY IN EVALUATING CHILDREN FOR ELIGIBILITY; REVISING REPORTING REQUIREMENTS; AMENDING SECTIONS 5-11-222, 20-3-326, 20-5-101, 20-7-1801, 20-7-1802, 20-7-1803, 20-7-1804, AND 20-9-311, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-11-222, MCA, is amended to read:

"5-11-222. Reports to legislature. (1) (a) Except as provided in subsections (1)(b) and (5), a report to the legislature means a biennial report required by the legislature and filed in accordance with 5-11-210 on or before September 1 of each year preceding the convening of a regular session of the legislature.

(b) If otherwise specified in law, a report may be required more or less frequently than the biennial requirement in subsection (1)(a).

(2) Reports to the legislature include:

(a) annual reports on the unified investment program for public funds and public retirement systems and state compensation insurance fund assets audits from the board of investments in accordance with Article VIII, section 13, of the Montana constitution;

(b) federal mandates requirements from the governor in accordance with 2-1-407;

(c) activities of the state records committee in accordance with 2-6-1108;

(d) revenue studies from the director of revenue, if requested, in accordance with 2-7-104;

(e) legislative audit reports from the legislative audit division in accordance with 2-8-112 and 23-7-410;

(f) the annual performance report of each department to the appropriate interim budget committee and legislative policy interim committee in accordance with 2-12-105;

(g) progress on gender and racial balance from the governor in accordance with 2-15-108;

(h) a mental health report from the ombudsman in accordance with 2-15-210;

(i) policies related to children and families from the interagency coordinating council for state prevention in accordance with 2-15-225;

(j) watercourse name changes, if any, from the secretary of state in accordance with 2-15-401;

(k) results of programs established in 2-15-3111 through 2-15-3113 from the livestock loss board in accordance with 2-15-3113;

(l) the allocation of space report from the department of administration required in accordance with 2-17-101;

(m) information technology activities in accordance with 2-17-512;

(n) state strategic information technology plan exceptions, if granted, from the department of administration in accordance with 2-17-515;

(o) the state strategic information technology plan and biennial report from the department of administration in accordance with 2-17-521 and 2-17-522;

(p) reports from standing, interim, and administrative committees, if prepared, in accordance with 2-17-825 and 5-5-216;

(q) statistical and other data related to business transacted by the courts from the court administrator, if requested, in accordance with 3-1-702;

(r) the judicial standards commission report in accordance with 3-1-1126;

(s) an annual report on the actual cost of legislation that had a projected fiscal impact from the office of budget and program planning in accordance with 5-4-208;

(t) a link to annual state agency reports on grants awarded in the previous fiscal year established by the legislative finance committee in accordance with 5-12-208;

(u) reports prepared by the legislative fiscal analyst, and as determined by the analyst, in accordance with 5-12-302(4);

(v) a report, if necessary, on administrative policies or rules adopted under 5-11-105 that may impair the independence of the legislative audit division in accordance with 5-13-305;

(w) if a waste of state resources occurs, a report from the legislative state auditor, in accordance with 5-13-311;

(x) school funding commission reports each fifth interim in accordance with 5-20-301;

(y) a report of political committee operations conducted on state-owned property, if required, from a political committee to the legislative services division in accordance with 13-37-404;

(z) a report concerning taxable value from the department of revenue in accordance with 15-1-205;

(aa) a report on tax credits from the revenue interim committee in accordance with 15-30-2303;

(bb) semiannual reports on the Montana heritage preservation and development account from the Montana heritage preservation and development commission in accordance with 15-65-121;

(cc) general marijuana regulation reports and medical marijuana registry reports from the department of revenue in accordance with 16-12-110;

(dd) annual reports on general fund and nongeneral fund encumbrances from the department of administration in accordance with 17-1-102;

(ee) loans or loan extensions authorized for two consecutive fiscal years from the department of administration and office of commissioner of higher

education, including negative cash balances from the commissioner of higher education, in accordance with 17-2-107;

(ff) a report of local government entities that have balances contrary to limitations provided for in 17-2-302 or that failed to reduce the charge from the department of administration in accordance with 17-2-304;

(gg) an annual report from the board of investments in accordance with 17-5-1650(2);

(hh) a quarterly report from the office of budget and program planning to the legislative finance committee identifying the amount and the type of debt payoff or other expenditure from the debt and liability free account in accordance with 17-6-214;

(ii) a report on retirement system trust investments and benefits from the board of investments in accordance with 17-6-230;

(jj) recommendations for reductions in spending and related analysis, if required, from the office of budget and program planning in accordance with 17-7-140;

(kk) a statewide facility inventory and condition assessment from the department of administration in accordance with 17-7-202;

(ll) actuary reports and investigations for public retirement systems from the public employees' retirement board in accordance with 19-2-405;

(mm) a work report from the public employees' retirement board in accordance with 19-2-407;

(nn) annual actuarial reports and evaluations from the teachers' retirement board in accordance with 19-20-201;

(oo) reports from the state director of K-12 career and vocational and technical education, as requested, in accordance with 20-7-308;

(pp) 5-year state plan for career and technical education reports from the board of regents in accordance with 20-7-330;

(qq) a gifted and talented students report from the office of public instruction in accordance with 20-7-904;

(rr) status changes for at-risk students from the office of public instruction in accordance with 20-9-328;

(ss) status changes for American Indian students from the office of public instruction in accordance with 20-9-330;

(tt) reports regarding the Montana Indian language preservation program from the office of public instruction in accordance with 20-9-537;

(uu) proposals for funding community colleges from the board of regents in accordance with 20-15-309;

(vv) expenditures and activities of the Montana agricultural experiment station and extension service, as requested, in accordance with 20-25-236;

(ww) reports, if requested by the legislature, from the president of each of the units of the higher education system in accordance with 20-25-305;

(xx) reports, if prepared by a public postsecondary institution, regarding free expression activities on campus in accordance with 20-25-1506;

(yy) reports from the Montana historical society trustees in accordance with 22-3-107;

(zz) state lottery reports in accordance with 23-7-202;

(aaa) state fund reports, if required, from the commissioner in accordance with 33-1-115;

(bbb) reports from the department of labor and industry in accordance with 39-6-101;

(ccc) victim unemployment benefits reports from the department of labor and industry in accordance with 39-51-2111;

(ddd) state fund business reports in accordance with 39-71-2363;

(eee) risk-based capital reports, if required, from the state fund in accordance with 39-71-2375;

(fff) child custody reports from the office of the court administrator in accordance with 41-3-1004;

(ggg) reports of remission of fine or forfeiture, respite, commutation, or pardon granted from the governor in accordance with 46-23-316;

(hhh) annual statewide public defender reports from the office of state public defender in accordance with 47-1-125;

(iii) a trauma care system report from the department of public health and human services in accordance with 50-6-402;

(jjj) an annual report on chemical abortion data from the department of public health and human services in accordance with 50-20-709;

(kkk) Montana criminal justice oversight council reports in accordance with 53-1-216;

(lll) medicaid block grant reports from the department of public health and human services in accordance with 53-1-611;

(mmm) reports on the approval and implementation status of medicaid section 1115 waivers in accordance with 53-2-215;

(nnn) provider rate, medicaid waiver, or medicaid state plan change reports from the department of public health and human services in accordance with 53-6-101;

(ooo) medicaid funding reports from the department of public health and human services in accordance with 53-6-110;

(ppp) proposals regarding managed care for medicaid recipients, if required, from the department of public health and human services in accordance with 53-6-116;

(qqq) reports on toxicology and prescription drug registry information from the suicide prevention officer in accordance with 53-21-1101;

(rrr) suicide reduction plans from the department of public health and human services in accordance with 53-21-1102;

(sss) annual compliance reports from certifying organizations to the criminal justice oversight council in accordance with 53-24-311;

(ttt) a compliance and inspection report from the department of corrections in accordance with 53-30-604;

(uuu) emergency medical services grants from the department of transportation in accordance with 61-2-109;

(vvv) annual financial reports on the environmental contingency account from the department of environmental quality in accordance with 75-1-1101;

(www) a report from the land board, if prepared, in accordance with 76-12-109;

(xxx) an annual state trust land report from the land board in accordance with 77-1-223;

(yyy) a noxious plant report, if prepared, from the department of agriculture in accordance with 80-7-713;

(zzz) state water plans from the department of natural resources and conservation in accordance with 85-1-203;

(aaaa) reports on the allocation of renewable resources grants and loans for emergencies, if required, from the department of natural resources and conservation in accordance with 85-1-605;

(bbbb) water storage projects from the governor's office in accordance with 85-1-704;

(cccc) upper Clark Fork River basin steering committee reports, if prepared, in accordance with 85-2-338;

(dddd) upland game bird enhancement program reports in accordance with 87-1-250;

(eeee) private land/public wildlife advisory committee reports in accordance with 87-1-269;

(ffff) a future fisheries improvement program report from the department of fish, wildlife, and parks in accordance with 87-1-272;

(gggg) license revenue recommendations from the department of fish, wildlife, and parks in accordance with 87-1-629;

(hhhh) reports from the department of fish, wildlife, and parks on conservation licenses sold and revenue received in accordance with 87-2-201;

(iiii) hydrocarbon and geology investigation reports from the bureau of mines and geology in accordance with 90-2-201;

(jjjj) coal ash markets investigation reports from the department of commerce in accordance with 90-2-202;

(kkkk) an annual report from the pacific northwest electric power and conservation planning council in accordance with 90-4-403;

(llll) community property-assessed capital enhancements program reports from the Montana facility finance authority in accordance with 90-4-1303;

(mmmm) veterans' home loan mortgage loan reports from the board of housing in accordance with 90-6-604;

(nnnn) matching infrastructure planning grant awards by the department of commerce in accordance with 90-6-703(3); and

(oooo) Montana coal endowment program reports from the department of commerce in accordance with 90-6-710.

(3) Reports to the legislature include reports made to an interim committee as follows:

(a) reports to the law and justice interim committee, including:

(i) a report onentanyl-related mandatory minimums from the attorney general in accordance with 2-15-505;

(ii) findings of the domestic violence fatality review commission in accordance with 2-15-2017;

(iii) the report from the missing indigenous persons review commission in accordance with 2-15-2018;

(iv) reports from the department of justice and public safety officer standards and training council in accordance with 2-15-2029;

(v) reports on district court judge caseload and substitutions from the office of court administrator in accordance with 3-1-713;

(vi) information on the Montana False Claims Act from the department of justice in accordance with 17-8-416;

(vii) annual case status reports from the attorney general in accordance with 41-3-210;

(viii) an annual report from the department of public health and human services on the number of referrals to county attorneys pursuant to 41-3-202(1)(b)(i) in accordance with 41-3-211;

(ix) office of court administrator reports in accordance with 41-5-2003;

(x) reports on pending investigations from the public safety officer standards and training council in accordance with 44-4-408;

(xi) statewide public safety communications system activities from the department of justice in accordance with 44-4-1606;

(xii) the annual report on the activities of the sexual assault response network program and the sexual assault response team committee from the department of justice in accordance with 44-4-1705;

(xiii) reports on the status of the crisis intervention team training program from the board of crime control in accordance with 44-7-110;

(xiv) restorative justice grant program status and performance from the board of crime control in accordance with 44-7-302;

(xv) law enforcement agency facial recognition technology use reports from the department of justice in accordance with 44-15-111(3);

(xvi) reports on third-party vendors providing facial recognition services to state agencies reports in accordance with 44-15-111(4)(b);

(xvii) reports on offenders under supervision with new offenses or violations from the department of corrections in accordance with 46-23-1016;

(xviii) supervision responses grid reports from the department of corrections in accordance with 46-23-1028;

(xix) statewide public defender reports and information from the office of state public defender in accordance with 47-1-125;

(xx) every 5 years, a percentage change in public defender funding report from the legislative fiscal analyst in accordance with 47-1-125;

(xxi) every 5 years, statewide public defender reports on the percentage change in funding from the office of state public defender in accordance with 47-1-125; and

(xxii) a report from the quality assurance unit from the department of corrections in accordance with 53-1-211;

(b) reports to the state administration and veterans' affairs interim committee, including:

(i) a report that includes information technology activities and additional information from the information technology board in accordance with 2-17-512 and 2-17-513;

(ii) a report from the capitol complex advisory council in accordance with 2-17-804;

(iii) a report on the employee incentive award program from the department of administration in accordance with 2-18-1103;

(iv) a board of veterans' affairs report in accordance with 10-2-102;

(v) a report on the decennial veterans' long-term care needs study from the department of public health and human services and the Montana veterans' affairs division in accordance with 10-2-903;

(vi) a report on grants to the Montana civil air patrol from the department of military affairs in accordance with 10-3-802;

(vii) annual reports on statewide election security from the secretary of state in accordance with 13-1-205;

(viii) reports on money received in the special account for implementing the Help America Vote Act from the secretary of state in accordance with 13-1-209;

(ix) a report regarding the youth voting program, if requested, from the secretary of state in accordance with 13-22-108;

(x) a report from the commissioner of political practices in accordance with 13-37-120;

(xi) a report on retirement system trust investments from the board of investments in accordance with 17-6-230;

(xii) actuarial valuations and other reports from the public employees' retirement board in accordance with 19-2-405 and 19-3-117;

(xiii) actuarial valuations and other reports from the teachers' retirement board in accordance with 19-20-201 and 19-20-216;

(xiv) a report on the reemployment of retired members of the teachers' retirement system from the teachers' retirement board in accordance with 19-20-732; and

(xv) changes, if any, affecting filing-office rules under the Uniform Commercial Code from the secretary of state in accordance with 30-9A-527;

(c) reports to the children, families, health, and human services interim committee, including:

(i) a report from the department of public health and human services on the programs, grants, and services funded under the healing and ending addiction through recovery and treatment account in 16-12-122;

(ii) Montana foster youth higher education assistance program grant reports from the commissioner of higher education in accordance with 20-26-633;

(iii) prescription drug registry reports from the board of pharmacy in accordance with 37-7-1514;

(iv) Montana HELP Act workforce development reports from the department of public health and human services in accordance with 39-12-103;

(v) reports from the department of public health and human services on the department's efforts regarding the volunteer program to support child protective services activities in accordance with 41-3-132;

(vi) annual reports from the child and family ombudsman in accordance with 41-3-1211;

(vii) reports on activities and recommendations on child protective services activities, if required, from the child and family ombudsman in accordance with 41-3-1215;

(viii) reports on the out-of-state placement of high-risk children with multiagency service needs from the department of public health and human services in accordance with 52-2-311;

(ix) private alternative adolescent residential and outdoor programs reports from the department of public health and human services in accordance with 52-2-803;

(x) provider rate, medicaid waiver, or medicaid state plan change reports from the department of public health and human services in accordance with 53-6-101;

(xi) a report from the department of public health and human services on home and community-based services provider information in 53-6-406;

(xii) a report concerning mental health managed care services, if managed care is in place, from the advisory council in accordance with 53-6-710;

(xiii) quarterly medicaid reports related to expansion from the department of public health and human services in accordance with 53-6-1325;

(xiv) annual Montana developmental center reports from the department of public health and human services in accordance with 53-20-225; and

(xv) annual children's mental health outcomes from the department of public health and human services in accordance with 53-21-508;

(xvi) suicide reduction plans from the department of public health and human services in accordance with 53-21-1102;

(d) reports to the economic affairs interim committee, including:

(i) the annual state compensation insurance fund budget from the board of directors in accordance with 5-5-223 and 39-71-2363;

(ii) medical marijuana registry reports from the department of revenue in accordance with 16-12-110;

(iii) general marijuana regulation reports from the department of revenue in accordance with 16-12-110(3);

(iv) annual reports on complaints against physicians certifying medical marijuana use from the board of medical examiners in accordance with 16-12-110(6);

(v) an annual report on the administrative rate required from the department of commerce from the Montana heritage preservation and development commission in accordance with 22-3-1002;

(vi) biennial reports from the department of labor and industry on weighing device license fees and cost increases in accordance with 30-12-203;

(vii) state fund reports from the insurance commissioner, if required, in accordance with 33-1-115;

(viii) risk-based capital reports, if required, from the state fund in accordance with 33-1-115 and 39-71-2375;

(ix) annual reinsurance reports from the Montana reinsurance association board required in accordance with 33-22-1308;

(x) reports from the department of labor and industry concerning board attendance in accordance with 37-1-107;

(xi) annual reports on physician complaints related to medical marijuana from the board of medical examiners in accordance with 37-3-203;

(xii) prescription drug registry reports from the board of pharmacy in accordance with 37-7-1514;

(xiii) status reports on the special revenue account and fees charged as a funding source from the board of funeral service in accordance with 37-19-204;

(xiv) unemployment insurance program integrity act reports from the department of labor and industry in accordance with 39-51-706;

(xv) law enforcement agency facial recognition technology use reports from the department of justice in accordance with 44-15-111(3);

(xvi) reports on third-party vendors providing facial recognition services to state agencies reports in accordance with 44-15-111(4)(b);

(xvii) status reports on the distressed wood products industry revolving loan program from the department of commerce in accordance with 90-1-503;

(e) reports to the education interim committee, including:

(i) reemployment of retired teachers, specialists, and administrators reports from the retirement board in accordance with 19-20-732;

(ii) a report on participation in the interstate compact on educational opportunity for military children in accordance with 20-1-231;

(iii) grow your own grant program reports from the commissioner of higher education in accordance with 20-4-601;

(iv) reports on out-of-district attendance from the superintendent of public instruction in accordance with 20-5-324;

(v) reports from the education and workforce data governing board in accordance with 20-7-138;

(vi) state-level strengthening career and technical student organizations program reports from the superintendent of public instruction in accordance with 20-7-320;

(vii) a report from the superintendent of public instruction concerning educational programs for eligible children receiving in-state inpatient treatment of serious emotional disturbances in accordance with 20-7-435;

(viii) reports from the Montana digital academy governing board in accordance with 20-7-1201;

(ix) advanced opportunity program reports from the board of public education in accordance with 20-7-1506;

(x) progress on transformational learning plans from the board of public education in accordance with 20-7-1602;

(xi) reports on early literacy targeted interventions from the superintendent of public instruction in accordance with 20-7-1804;

(xii) budget amendments, if needed, from school districts in accordance with 20-9-161;

(xiii) reports regarding the Montana Indian language preservation program from the office of public instruction in accordance with 20-9-537;

(xiv) annual Montana resident student financial aid program reports from the commissioner of higher education in accordance with 20-26-105;

(xv) Montana foster youth higher education assistance program grant reports from the commissioner of higher education in accordance with 20-26-633;

(xvi) a historic preservation office report from the historic preservation officer in accordance with 22-3-423; and

(xvii) interdisciplinary child information agreement reports from the office of public instruction in accordance with 52-2-211;

(f) reports to the energy and telecommunications interim committee, including:

(i) the high-performance building report from the department of administration in accordance with 17-7-214;

(ii) an annual report from the consumer counsel in accordance with 69-1-222;

(iii) annual universal system benefits reports from utilities, electric cooperatives, and the department of revenue in accordance with 69-8-402;

(iv) small-scale hydroelectric power generation reports from the department of natural resources and conservation in accordance with 85-1-501; and

(v) geothermal reports from the Montana bureau of mines and geology in accordance with 90-3-1301;

(g) reports to the revenue interim committee, including:

(i) use of the qualified endowment tax credit report from the department of revenue in accordance with 15-1-230;

(ii) tax rates for the upcoming reappraisal cycle from the department of revenue in accordance with 15-7-111;

(iii) information about job growth incentive tax credits from the department of revenue in accordance with 15-30-2361;

(iv) student scholarship contributions from the department of revenue in accordance with 15-30-3112;

(v) media production tax credit economic impact reports from the department of commerce in accordance with 15-31-1011; and

(vi) reports that actual or projected receipts will result in less revenue than estimated from the office of budget and program planning, if necessary, in accordance with 17-7-140;

(h) reports to the transportation interim committee, including:

(i) biodiesel tax refunds from the department of transportation in accordance with 15-70-433;

(ii) cooperative agreement negotiations from the department of transportation in accordance with 15-70-450; and

(iii) a special fuels inspection report from the department of transportation in accordance with 61-10-154;

(i) reports to the environmental quality council, including:

(i) compliance and enforcement reports required in accordance with 75-1-314;

(ii) the state solid waste management and resource recovery plan, every 5 years, from the department of environmental quality in accordance with 75-10-111;

(iii) annual orphan share reports from the department of environmental quality in accordance with 75-10-743;

(iv) Libby asbestos superfund oversight committee reports in accordance with 75-10-1601;

(v) annual subdivision sanitation reports from the department of environmental quality in accordance with 76-4-116;

(vi) quarterly reports from the department of environmental quality on the number and percentage of overdue files in accordance with 76-4-116;

(vii) state trust land accessibility reports from the department of natural resources and conservation in accordance with 77-1-820;

(viii) biennial land banking reports and annual state land cabin and home site sales reports from the department of natural resources and conservation in accordance with 77-2-366;

(ix) biennially invasive species reports from the departments of fish, wildlife, and parks and natural resources and conservation in accordance with 80-7-1006;

(x) annual invasive species council reports in accordance with 80-7-1203;

(xi) sand and gravel reports, if an investigation is completed, in accordance with 82-2-701;

(xii) reports from the western Montana conservation commission in accordance with 85-1-904;

(xiii) annual sage grouse population reports from the department of fish, wildlife, and parks in accordance with 87-1-201;

(xiv) annual gray wolf management reports from the department of fish, wildlife, and parks in accordance with 87-1-901;

(xv) biennial Tendoy Mountain sheep herd reports from the department of fish, wildlife, and parks in accordance with 87-2-702;

(xvi) wildlife habitat improvement project reports from the department of fish, wildlife, and parks in accordance with 87-5-807; and

(xvii) annual sage grouse oversight team activities and staffing reports in accordance with 87-5-918;

(j) reports to the water policy interim committee, including:

(i) drought and water supply advisory committee reports in accordance with 2-15-3308;

(ii) total maximum daily load reports from the department of environmental quality in accordance with 75-5-703;

(iii) state water plans from the department of natural resources and conservation in accordance with 85-1-203;

(iv) small-scale hydroelectric power generation reports from the department of natural resources and conservation in accordance with 85-1-501;

(v) renewable resource grant and loan program reports from the department of natural resources and conservation in accordance with 85-1-621;

(vi) reports from the western Montana conservation commission in accordance with 85-1-904;

(vii) quarterly adjudication reports from the department of natural resources and conservation and the water court in accordance with 85-2-281;

(viii) water reservation reports from the department of natural resources and conservation in accordance with 85-2-316;

(ix) instream flow reports from the department of fish, wildlife, and parks in accordance with 85-2-436; and

(x) ground water investigation program reports from the bureau of mines and geology in accordance with 85-2-525;

(k) reports to the local government interim committee, including:

(i) reports from the local government center on petitions received that resulted in the development and delivery of training in accordance with 7-1-206;

(ii) sand and gravel, if an investigation is completed, in accordance with 82-2-701;

(iii) assistance to local governments on federal land management proposals from the department of commerce in accordance with 90-1-182; and

(iv) emergency financial assistance to local government reports from the department of commerce, if requests are made, in accordance with 90-6-703(2);

(l) reports to the state-tribal relations committee, including:

(i) reports from the missing indigenous persons review commission in accordance with 2-15-2018;

(ii) the Montana Indian language preservation program report from the office of public instruction in accordance with 20-9-537;

(iii) reports from the missing indigenous persons task force in accordance with 44-2-411;

(iv) a report from the department of justice on missing persons response team training grants awarded in accordance with 44-2-416;

(v) state-tribal economic development commission activities reports from the state-tribal economic development commission in accordance with 90-1-132; and

(vi) state-tribal economic development commission reports provided regularly by the state director of Indian affairs in accordance with 90-11-102.

(4) Reports to the legislature include multistate compact and agreement reports, including:

(a) multistate tax compact reports in accordance with 15-1-601;

(b) interstate compact on educational opportunity for military children reports in accordance with 20-1-230 and 20-1-231;

(c) compact for education reports in accordance with 20-2-501;

(d) Western regional higher education compact reports in accordance with 20-25-801;

(e) interstate insurance product regulation compact reports in accordance with 33-39-101;

(f) interstate medical licensure compact reports in accordance with 37-3-356;

(g) interstate compact on juveniles reports in accordance with 41-6-101;

(h) interstate compact for adult offender supervision reports in accordance with 46-23-1115;

(i) vehicle equipment safety compact reports in accordance with 61-2-201;

(j) multistate highway transportation agreement reports in accordance with 61-10-1101; and

(k) western interstate nuclear compact reports in accordance with 90-5-201.

(5) Reports, transfers, statements, assessments, recommendations and changes required under 17-7-138, 17-7-139, 17-7-140, 19-2-405, 19-2-407, 19-3-117, 19-20-201, 19-20-216, 23-7-202, 33-1-115, and 39-71-2375 must be provided as soon as the report is published and publicly available. Reports required in subsections (2)(a), (2)(gg), (2)(ii), and (3)(b)(xi) must be provided following issuance of reports issued under Title 5, chapter 13.”

Section 2. Section 20-3-326, MCA, is amended to read:

“20-3-326. Information on educational opportunities – duties of trustees. (1) The board of trustees of a school district shall develop, update, and annually provide to students and families of the district information on the educational opportunities available through the schools of the district. The information must align to the legislative intent of preserving and protecting the right to access personalized learning as set forth in 20-7-1601 and must be designed to empower families in understanding the options available to them in partnering with schools to develop their child’s full educational potential. A school board may satisfy its obligation through the use of model resources developed by an organization of school boards of which the school board is a member.

(2) The information provided under subsection (1) must include, at a minimum, the following educational and extracurricular opportunities:

(a) evaluation and identification of children with disabilities and special education programs beginning at age 3 pursuant to 20-7-411;

(b) early literacy targeted interventions pursuant to 20-7-1801 through 20-7-1804;

(c) part-time enrollment of a student who is otherwise enrolled at a nonpublic or home school pursuant to 20-5-101;

(d) admission to a school of a district beginning at age 5 pursuant to 20-5-101, and the option to enroll a child in a half-time kindergarten program pursuant to 20-7-117;

(e) proficiency-based learning and other forms of personalized learning pursuant to 20-7-1601, including options for obtaining course equivalency and course waiver determinations from the board of trustees pursuant to 20-3-324(18);

(f) participation in extracurricular activities, including participation by nonpublic and home school students pursuant to 20-5-112;

(g) access to remote instruction, including through the Montana digital academy pursuant to Title 20, chapter 7, part 12, and through other school districts as provided in 20-7-118;

(h) out-of-district attendance pursuant to Title 20, chapter 5, part 3;

(i) availability of funding to support student access to advanced opportunities, if applicable to a district pursuant to 20-7-1506;

(j) career and technical education pursuant to Title 20, chapter 7, part 3, including the attainment of industry-recognized credentials and work-based learning, pursuant to 20-7-1510;

(k) early college, dual enrollment, and running start opportunities, pursuant to 20-9-706; and

(l) other opportunities for school-age children through Montana public schools that:

(i) support the development of a child's full educational potential;

(ii) assist in reducing the costs of postsecondary education and workforce preparation; and

(iii) foster life success.

(3) The legislature intends that boards of trustees and organizations of boards of trustees communicate and collaborate with the education interim committee to demonstrate the implementation of the requirements of this section and to identify additional opportunities following legislative sessions."

Section 3. Section 20-5-101, MCA, is amended to read:

"20-5-101. Admittance of child to school. (1) The trustees shall assign and admit a child to a school in the district when the child is:

(a) 5 years of age or older on or before September 10 of the year in which the child is to enroll but is not yet 19 years of age;

(b) a resident of the district; and

(c) otherwise qualified under the provisions of this title to be admitted to the school.

(2) The trustees of a district may assign and admit any nonresident child to a school in the district under the tuition provisions of this title.

(3) (a) The trustees may at their discretion assign and admit a child to a school in the district who is under 5 years of age or an adult who is 19 years of age or older if there are exceptional circumstances that merit waiving the age provision of this section. The trustees may also admit an individual who has graduated from high school but is not yet 19 years of age even though no special circumstances exist for waiver of the age provision of this section.

(b) As used in this subsection, "exceptional circumstances" means any of the following:

(i) the child is being admitted into a preschool program established by the trustees pursuant to 20-7-117;

(ii) the child is determined by the trustees to be ready for kindergarten and the child's parents have requested early entry into the district's regular 1-year kindergarten program;

(iii) the child is being admitted into an early ~~literacy~~ targeted intervention classroom or jumpstart program pursuant to Title 20, chapter 7, part 18; or

(iv) the adult is 19 years of age or older and in the trustees' determination would benefit from educational programs offered by a school of the district.

(c) The admittance of an individual under this subsection (3) does not in and of itself impact the ANB calculations governed by 20-9-311.

(4) The trustees shall assign and admit a child who is homeless, as defined in the Stewart B. McKinney Homeless Assistance Act, (Public Law 100-77), to a school in the district regardless of residence. The trustees may not require an out-of-district attendance agreement or tuition for a homeless child.

(5) The trustees shall assign and admit a child whose parent or guardian is being relocated to Montana under military orders to a school in the district and allow the child to preliminarily enroll in classes and apply for programs offered by the district prior to arrival and establishing residency.

(6) Except for the provisions of subsection (4), tuition for a nonresident child must be paid in accordance with the tuition provisions of this title.

(7) The trustees' assignment of a child meeting the qualifications of subsection (1) to a school in the district outside of the adopted school boundaries applicable to the child is subject to the district's grievance policy. Upon completion of procedures set forth in the district's grievance policy, the trustees' decision regarding the assignment is final.

(8) The trustees shall assign and admit a child who is enrolled in a nonpublic or home school and who meets the requirements of subsection (1) as a part-time enrollee at the request of the child's parent or guardian.

(9) For the purposes of this part, "part-time enrollee" means a qualifying pupil who is enrolled and admitted at one of the fractional levels that qualify for part-time ANB pursuant to 20-9-311(4)(a) or (4)(d)."

Section 4. Section 20-7-1801, MCA, is amended to read:

"20-7-1801. Findings – purpose – legislative intent. (1) The legislature finds that the ability to read *and to perform math* at or above grade level is essential for educational success. The legislature also finds that too many Montana children are not ~~reading~~ *proficient in reading or math* at the end of 3rd grade.

(2) The purposes of this ~~bill~~ *part* are to:

(a) provide parents with voluntary early ~~literacy~~ interventions for their children;

(b) increase the number of children who are ~~reading~~ *proficient in reading and math* at the end of 3rd grade and in so doing help those children develop their full educational potential pursuant to Article X, section 1(1), of the Montana constitution; and

(c) foster a strong economic return for the state on early ~~literacy~~ *educational* investment through enhancing Montana's skilled workforce and decreasing future reliance on social programs and the criminal justice system.

(3) The legislature intends that the board of public education, the office of public instruction, and the boards of trustees of school districts collaborate to implement this part and achieve the purposes under subsection (2).

(4) The legislature further intends that the board of public education, the office of public instruction, and the boards of trustees of school districts collaborate on an ongoing basis to gather, analyze, and make available

outcome data and continually refine the interventions to increase the efficacy and efficiency of each intervention.”

Section 5. Section 20-7-1802, MCA, is amended to read:

“20-7-1802. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) “Early literacy targeted intervention” or “intervention” means, as further described in 20-7-1803, any of the following:

- (a) a classroom-based program;
- (b) a home-based program; or
- (c) a jumpstart program.

(2) “Eligible child” means a child who is determined through the evaluation methodology selected by the board of public education pursuant to 20-7-1803 to be below a trajectory leading to reading *or math* proficiency at the end of 3rd grade.

(3) “Evaluation methodology” means a research-based methodology, instrument, or assessment selected by the board of public education to determine, based on a child’s age or grade level, whether the child is above, at, or below a developmental trajectory leading to reading *or math* proficiency on completion of 3rd grade.

(4) “Trustees” means the board of trustees of an elementary or K-12 school district.”

Section 6. Section 20-7-1803, MCA, is amended to read:

“20-7-1803. Early literacy targeted interventions. (1) The trustees of a school district may provide eligible children with any of the interventions described in this section. This part may not be construed to limit the duty or authority of trustees to provide educational opportunities described elsewhere in this title.

(2) The board of public education shall determine ~~an evaluation methodology~~ *evaluation methodologies* to determine, based on a child’s age or grade level, whether the child is above, at, or below a developmental trajectory leading to reading *or math* proficiency on completion of 3rd grade. The evaluation *methodologies* must be:

- (a) developmentally appropriate;
- (b) research-based;
- (c) cost-effective; and
- (d) if possible, aligned with formative assessments that inform instruction in the classroom-based program and the jumpstart program.

(3) The superintendent of public instruction shall provide school districts with access to and technical support for the evaluation ~~methodology, instrument, or assessment~~ *methodologies* determined by the board of public education.

(4) A child may not be evaluated for the purposes of this part unless requested by the child’s parent or guardian. The trustees may administer ~~the~~ *an evaluation methodology in April, May, or June* to a child who will be 4 years of age or older on or before the following September 10 and who has not yet entered 3rd grade. A child who is evaluated to be below trajectory for 3rd-grade reading *or math* proficiency for the child’s age or grade level is an eligible child ~~for the subsequent school year~~.

(5) (a) For an eligible child who is 4 years of age or older on or before September 10 of the year in which the child is to participate in the program and who is not entering and who has not completed kindergarten, the trustees may offer a classroom-based program, which may be a half-time or full-time program. A full-time program must allow a parent or guardian to enroll the child half-time.

(b) The classroom-based program must align with developmentally appropriate early education learning standards as determined by the board of public education. The standards must include a requirement for ongoing evaluation of student progress used to tailor instruction to specific student needs.

(6) (a) For an eligible child who is 4 years of age or older on or before September 10 of the year in which the child is to participate in the program and who has not yet completed 2nd grade, the trustees may offer a home-based program.

(b) The home-based program must be selected by the board of public education and must:

(i) be operated by a nonprofit entity;

(ii) be research-based and proven effective at developing early literacy *or* numeracy skills in populations at risk of not being reading proficient *in reading or math* at the end of 3rd grade;

(iii) foster parental engagement; and

(iv) have a cost of no more than \$1,000 a year for each child.

(c) The superintendent of public instruction shall provide school districts with access to and technical support for the home-based early literacy program.

(7) (a) For an eligible child who is 5 years of age or older on or before September 10 of the year in which the child is to participate in the program and who has not yet completed 3rd grade, the trustees may offer a jumpstart program.

(b) The jumpstart program must:

(i) take place during the time between the end of one school calendar year and the start of the next school calendar year, as determined by the trustees, preceding a child's entry into kindergarten, 1st grade, 2nd grade, or 3rd grade;

(ii) be at least 4 weeks in duration and provide at least 120 instructional hours;

(iii) be aligned to a framework determined by the board of public education; *and*

(iv) be designed in a manner to increase the likelihood of a child being evaluated at the end of the ensuing school year to be at or above a trajectory leading to reading *or math* proficiency at the end of 3rd grade."

Section 7. Section 20-7-1804, MCA, is amended to read:

"20-7-1804. Early literacy targeted interventions -- funding -- reporting. (1) An eligible child participating in a classroom-based program pursuant to 20-7-1803(5) must be included in enrollment counts for the purpose of ANB calculations in the manner described in 20-9-311.

(2) The superintendent of public instruction shall pay for the costs for an eligible child participating in a home-based program pursuant to 20-7-1803(6) from funds appropriated for this purpose. The cost for each child may not exceed \$1,000 a year. If the annual appropriation for this program is not sufficient to fully fund all eligible children participating in the home-based program, the superintendent shall limit participation on a first-come, first-served basis.

(3) An eligible child participating in a jumpstart program pursuant to 20-7-1803(7) must be counted as quarter-time enrollment for the purpose of ANB calculations pursuant to 20-9-311.

(4) Trustees offering an early literacy targeted intervention shall closely monitor the program and report annually to the superintendent of public instruction on the efficacy of the program no later than July 15. The superintendent shall collaborate with trustees in maximizing the efficiency of fulfilling this reporting requirement. The report must include anonymized information on student progress, including the student's performance on:

- (a) the evaluation methodology that led to eligibility for the program;
- (b) any formative assessments administered;
- (c) if administered, the evaluation methodology at the end of the school year in which intervention was provided; and

(d) any statewide reading *and math* assessments administered in grades 4 through 6.

(5) Pursuant to 20-7-104, the superintendent of public instruction shall monitor early literacy targeted interventions and gather data to evaluate the efficacy of the interventions while protecting the privacy rights of students and families. The superintendent shall report, in accordance with 5-11-210, to the education interim committee and the education interim budget committee no later than September 1 annually. The report must contain a comparison analysis by intervention type, including no intervention, and must include:

- (a) the number of participating and nonparticipating children and districts;
- (b) longitudinal data displaying the proficiency level of participating and nonparticipating children at each grade level following participation in an intervention;

(c) at a time when the data is available, long-term outcome data for participants and nonparticipants, including but not limited to:

- (i) assessment data in 8th grade and high school;
 - (ii) high school graduation rates; and
 - (iii) postsecondary participation rates; and
- (d) a list of schools offering one or more targeted interventions and a list of the matched comparable nonparticipating schools that on the most recent 4th grade statewide reading ~~assessment~~ *and math assessments*:

- (i) had 75% or more of its students score at proficient or above; or
- (ii) improved the percentage of students scoring at proficient or above by 10 or more percentage points.”

Section 8. Section 20-9-311, MCA, is amended to read:

“20-9-311. Calculation of average number belonging (ANB) – 3-year averaging. (1) Average number belonging (ANB) must be computed for each budget unit as follows:

(a) compute an average enrollment by adding a count of regularly enrolled pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on the first Monday in February of the prior school fiscal year or the next school day if those dates do not fall on a school day, and divide the sum by two; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than the minimum aggregate hours under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) (a) Except as provided in subsection (4)(d), for the purpose of calculating ANB, enrollment in an education program:

(i) from 180 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time enrollment;

(ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time enrollment;

(iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time enrollment; and

(iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

(b) Except as provided in subsection (4)(d), enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

(c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on the hours necessary and appropriate to provide the course within a regular classroom schedule.

(d) A school district may include in its calculation of ANB a pupil who is enrolled in a program providing fewer than the required aggregate hours of pupil instruction required under subsection (4)(a) or (4)(b) if the pupil has demonstrated proficiency in the content ordinarily covered by the instruction as determined by the school board using district assessments. The ANB of a pupil under this subsection (4)(d) must be converted to an hourly equivalent based on the hours of instruction ordinarily provided for the content over which the student has demonstrated proficiency.

(e) (i) Except as provided in subsection (4)(e)(ii), a pupil in kindergarten through grade 12 who is concurrently enrolled in more than one public school, program, or district may not be counted as more than one full-time pupil for ANB purposes. When a pupil is concurrently enrolled in more than one district, any fractional enrollment under subsection (4)(a) must be attributed first to a pupil's nonresident district.

(ii) A pupil who participates in a jumpstart program under Title 20, chapter 7, part 18, may be counted as up to 1 1/4 enrollment for ANB purposes. A district shall add one-quarter enrollment for a pupil who participated in ~~an~~ *early literacy* a jumpstart program to the pupil's regular enrollment count under this subsection (4) in both the October and February enrollment counts following the student's participation in the jumpstart program.

(5) For a district that is transitioning from a half-time to a full-time kindergarten program, the state superintendent shall count kindergarten enrollment in the previous year as full-time enrollment for the purpose of calculating ANB for the elementary programs offering full-time kindergarten in the current year. For the purposes of calculating the 3-year ANB, the superintendent of public instruction shall count the kindergarten enrollment as one-half enrollment and then add the additional kindergarten ANB to the 3-year average ANB for districts offering full-time kindergarten.

(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) (a) The enrollment of preschool pupils, as provided in 20-7-117, may not be included in the ANB calculations.

(b) Except as provided in subsection (7)(c), a pupil who has reached 19 years of age by September 10 of the school year may not be included in the ANB calculations.

(c) A pupil with disabilities who is over 19 years of age and has not yet reached 21 years of age by September 10 of the school year and who is receiving special education services from a school district pursuant to 20-7-411(4)(a) may be included in the ANB calculations if:

(i) the student has not graduated;

(ii) the student is eligible for special education services and is likely to be eligible for adult services for individuals with developmental disabilities due to the significance of the student's disability; and

(iii) the student's individualized education program has identified transition goals that focus on preparation for living and working in the community following high school graduation since age 16 or the student's disability has increased in significance after age 16.

(d) A school district providing special education services pursuant to subsection (7)(c) is encouraged to collaborate with agencies and programs that serve adults with developmental disabilities in meeting the goals of a student's transition plan.

(8) The average number belonging of the regularly enrolled pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled pupils attending the schools of the district, except that:

(a) the ANB is calculated as a separate budget unit when:

(i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and incorporated territory is not involved in the district, the number of regularly enrolled pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(iii) the superintendent of public instruction approves an application not to aggregate when geographic barriers exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, that would result in an unusual hardship to the pupils of the school if they were transported to another school, the number of regularly enrolled pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district; or

(iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and the basic entitlements of the component districts must be calculated separately for a period of 3 years following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional years as follows:

(A) 75% of the basic entitlement for the fourth year;

(B) 50% of the basic entitlement for the fifth year; and

(C) 25% of the basic entitlement for the sixth year.

(b) when a junior high school has been approved and accredited as a junior high school, all of the regularly enrolled pupils of the junior high school must be considered as high school district pupils for ANB purposes;

(c) when a middle school has been approved and accredited, all pupils below the 7th grade must be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high school pupils for ANB purposes; or

(d) when a school has been designated as nonaccredited by the board of public education because of failure to meet the board of public education's assurance and performance standards, the regularly enrolled pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district.

(9) The district shall provide the superintendent of public instruction with semiannual reports of school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the superintendent.

(10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program provided by the district through any combination of in-person or remote instruction may be included for ANB purposes only if the pupil is offered access to the complete range of educational services for the basic education program required by the accreditation standards adopted by the board of public education.

(b) Access to school programs and services for a student placed by the trustees in a private program for special education may be limited to the programs and services specified in an approved individual education plan supervised by the district.

(c) Access to school programs and services for a student who is incarcerated in a facility, other than a youth detention center, may be limited to the programs and services provided by the district at district expense under an agreement with the incarcerating facility.

(d) This subsection (10) may not be construed to require a school district to offer access to activities governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a pupil who is not otherwise eligible under the rules of the organization.

(11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this title and who is:

(a) a resident of the district or a nonresident student admitted by trustees under a student attendance agreement and who is attending a school or an offsite instructional setting of the district;

(b) unable to attend school due to a medical reason certified by a medical doctor and receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(c) unable to attend school due to the student's incarceration in a facility, other than a youth detention center, and who is receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(d) receiving special education and related services, other than day treatment, under a placement by the trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's expense under an approved individual education plan supervised by the district;

(e) participating in the running start program at district expense under 20-9-706;

(f) receiving educational services, provided by the district, using appropriately licensed district staff at a private residential program or private residential facility licensed by the department of public health and human services;

(g) enrolled in an educational program or course provided at district expense using remote delivery methods, including but not limited to tutoring, distance learning programs, online programs, and technology delivered learning programs. The pupil:

(i) must meet the residency requirements for that district as provided in 1-1-215;

(ii) shall live in the district and must be eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or

(iii) must be enrolled in the educational program or course under a mandatory attendance agreement as provided in 20-5-321; or

(iv) must be receiving remote instruction under 20-7-118(1)(c).

(h) a resident of the district attending the Montana youth challenge program or a Montana job corps program under an interlocal agreement with the district under 20-9-707.

(12) A district shall, for ANB purposes, calculate the enrollment of an eligible Montana youth challenge program participant as half-time enrollment.

(13) (a) A district may, for ANB purposes, include in the October and February enrollment counts an individual who is otherwise eligible under this title and who during the prior school year:

(i) resided in the district;

(ii) was not enrolled in the district or was not enrolled full time; and

(iii) completed an extracurricular activity with a duration of at least 6 weeks.

(b) (i) Except as provided in subsection (13)(b)(ii), each completed extracurricular activity under subsection (13)(a) may be counted as one-sixteenth enrollment for the individual, but under this subsection (13) the individual may not be counted as more than one full-time enrollment for ANB purposes.

(ii) Each completed extracurricular activity lasting longer than 18 weeks may be counted as one-eighth enrollment.

(c) For the purposes of this section, "extracurricular activity" means:

(i) a sport or activity sanctioned by an organization having jurisdiction over interscholastic activities, contests, and tournaments;

(ii) an approved career and technical student organization, pursuant to 20-7-306; or

(iii) a school theater production.

(14) (a) For an elementary or high school district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever generates the greatest maximum general fund budget.

(b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and high school programs pursuant to subsection (14)(a) and then combined.

(15) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

(a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the previous 2 school fiscal years; and

(b) dividing the sum calculated under subsection (15)(a) by three."

Section 9. Transition. A school district may administer a numeracy-based evaluation methodology as soon as the methodology is determined by the board of public education pursuant to 20-7-1803, and a district may incorporate numeracy in jumpstart programs starting on or after [the effective date of this act].

Section 10. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 440

[HB 341]

AN ACT REVISING THE MOTOR VEHICLE REGISTRATION TRAUMATIC BRAIN INJURY DONATION LAWS; PROVIDING FOR THE USE OF THE FUNDS TO EDUCATE AND SUPPORT INDIVIDUALS AND FAMILIES LIVING WITH TRAUMATIC BRAIN INJURIES; CHANGING THE CONTRIBUTION TO AN AUTOMATIC DONATION WITH AN OPT-OUT PROVISION; PROVIDING FOR NOTICE; PROVIDING AN APPROPRIATION; AND AMENDING SECTIONS 2-15-2218, 33-22-2104, 61-3-303, AND 61-14-101, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-2218, MCA, is amended to read:

“2-15-2218. Traumatic brain injury account. (1) There is a traumatic brain injury account in the state special revenue fund ~~for purposes of traumatic brain injury prevention, education, and support.~~

(2) Money in this account may be used by the department of public health and human services ~~to fund the advisory council and to provide grants for public information and prevention education regarding traumatic brain injury for funding activities that educate and support recovery of individuals and families, including military service personnel, living with traumatic brain injuries, promote brain injury prevention, and support the traumatic brain injury advisory council.”~~

Section 2. Section 33-22-2104, MCA, is amended to read:

“33-22-2104. Cancer screening account. (1) There is a cancer screening account in the state special revenue fund established in 17-2-102 to the credit of the department of public health and human services.

(2) The account consists of:

(a) money collected from the donation provided for in 61-3-303(6)(d)(c);

(b) other gifts and donations to the department for cancer screening efforts; and

(c) interest and income earned on the account.

(3) Money in the account must be used by the department of public health and human services to support cancer screening efforts.”

Section 3. Section 61-3-303, MCA, is amended to read:

“61-3-303. Original registration – process – fees. (1) Except as provided in 61-3-324, a Montana resident who is an owner of a motor vehicle, trailer, semitrailer, or pole trailer operated or driven upon the public highways of this state shall register the motor vehicle, trailer, semitrailer, or pole trailer in the county where the registering owner is domiciled. A nonresident who has an interest in real property in Montana may register in the county where the real property is located a motor vehicle, trailer, semitrailer, or pole trailer operated or driven upon the public highways of this state. A person serving or retired from serving aboard the USS Montana may register by mail in Lewis and Clark County using forms prescribed by the department.

(2) A Montana resident who is an owner of a motor vehicle, trailer, semitrailer, or pole trailer with co-owners, one or more of whom are not Montana residents, may register the vehicle regardless of the fact that one or more of the co-owners would otherwise not qualify to register the vehicle under subsection (1) if the registering Montana resident is:

(a) an individual human being; and

(b) the principal operator of, and in whom is vested the right of possession and control of, the vehicle.

(3) Except as provided in subsection (4), the county treasurer or an authorized agent shall register any vehicle for which:

(a) as of the date that the motor vehicle, trailer, semitrailer, or pole trailer is to be registered, an owner delivers an application for a certificate of title to the department, an authorized agent, or a county treasurer; or

(b) the county treasurer or an authorized agent confirms that the department has an electronic record of title for the motor vehicle, trailer, semitrailer, or pole trailer as provided under 61-3-101.

(4) (a) A county treasurer or an authorized agent may register a motor vehicle, trailer, semitrailer, or pole trailer for which a certificate of title and registration were issued in another jurisdiction and for which registration is required under 61-3-701 after the county treasurer or the authorized agent examines the current out-of-jurisdiction registration certificate or receipt and receives payment of the fees required in 61-3-701. The county treasurer or an authorized agent may ask the motor vehicle, trailer, semitrailer, or pole trailer owner to provide additional information, prescribed by the department, to ensure that the electronic record of registration maintained by the department is complete.

(b) A county treasurer or an authorized agent shall collect fees pursuant to 61-3-203 and 61-3-220(4) and issue a 90-day temporary registration permit pursuant to 61-3-224 for a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for which the new owner cannot, due to circumstances beyond the new owner's control, surrender a previously assigned certificate of title. The new owner shall request the 90-day temporary registration permit from the authorized agent or county treasurer that originally issued the temporary registration permit.

(c) A person serving or retired from serving aboard the USS Montana shall include in an application for a certificate of title, in a manner prescribed by the department, proof that the person has current orders to serve or has previously served aboard the USS Montana.

(5) Upon registering a motor vehicle, trailer, semitrailer, or pole trailer for the first time in this state, the county treasurer or an authorized agent shall:

(a) update the electronic record of title, if any, maintained for the vehicle by the department under 61-3-101;

(b) assign a registration period for the vehicle under 61-3-311;

(c) determine the vehicle's age, if required, under 61-3-501;

(d) determine the amount of fees, including local option taxes or fees, to be paid under subsection (6); and

(e) assign and issue license plates for the vehicle under 61-3-331.

(6) Unless otherwise provided by law, a person registering a motor vehicle shall pay to the county treasurer or an authorized agent:

(a) the fees in lieu of tax or registration fees as required for:

(i) a light vehicle under 61-3-321 or 61-3-562, in addition to, if applicable, any local option tax or fee under 61-3-537 or 61-3-570;

(ii) a motor home under 61-3-321;

(iii) a travel trailer under 61-3-321;

(iv) a motorcycle or quadricycle under 61-3-321;

(v) a bus, a truck having a manufacturer's rated capacity of more than 1 ton, or a truck tractor under 61-3-321 and 61-3-529; or

(vi) a trailer under 61-3-321;

(b) a donation of \$1 or more if the person indicates that the person wishes to donate to promote awareness and education efforts for procurement of organ and tissue donations in Montana to favorably impact anatomical gifts;

~~(c) a donation of \$1 or more if the person indicates that the person wishes to donate to promote education on, support for, and awareness of traumatic brain injury; and~~

~~(d)(c) a donation of \$1 or more if the person indicates that the person wishes to donate to a program supporting cancer screening; and~~

(d) unless the person opts out of the donation, an automatic donation of \$1 to fund activities that educate and support recovery of individuals and families, including military service personnel, living with traumatic brain injuries, promote brain injury prevention, and support the traumatic brain injury advisory council. The county treasurer or an authorized agent shall post a notice that is at least 8 1/2 x 11 inches in size in one or more locations where a person registering a motor vehicle, trailer, semitrailer, or pole trailer can read it. The notice must explain the donation details provided in this subsection (6)(d) in substantially similar language, including the automatic nature of the donation and the option to opt out of it.

(7) The county treasurer or an authorized agent may not issue a registration receipt or license plates for the motor vehicle, trailer, semitrailer, or pole trailer to the owner unless the owner makes the payments required by subsection (6).

(8) The department may make full and complete investigation of the registration status of the motor vehicle, trailer, semitrailer, or pole trailer. A person seeking to register a motor vehicle, trailer, semitrailer, or pole trailer under this section shall provide additional information to support the registration to the department if requested.

(9) Revenue that accrues from the ~~voluntary~~ donations provided for in subsection (6) must be forwarded by the respective county treasurer or an authorized agent to the department for deposit as follows:

(a) in the state special revenue fund to the credit of an account established by the department of labor and industry to support activities related to awareness and education efforts for procurement of organ and tissue donations for anatomical gifts if the revenue is from the donation provided for in subsection (6)(b);

(b) to the credit of the special revenue account established in 33-22-2104 if the revenue is from the donation provided for in subsection (6)(c); and

~~(b)(c) to the credit of the account established in 2-15-2218 if the revenue is from the donation provided for in subsection (6)(c)(d); and~~

~~(c) to the credit of the special revenue account established in 33-22-2104 if the revenue is from the donation provided for in subsection (6)(d).~~

(10) (a) Except as provided in subsection (10)(b), the fees in lieu of tax, taxes, and fees imposed on or collected from the registration of a travel trailer, motorcycle, or quadricycle or a trailer, semitrailer, or pole trailer that has a declared weight of less than 26,000 pounds are required to be paid only once during the time that the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is owned by the same person who registered the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer. When registered, a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is registered permanently unless ownership is transferred or unless it was registered under 61-3-701.

(b) Whenever ownership of a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is transferred, the new owner is required to register the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer as if it were being registered for the first time, including paying all of the required fees in lieu of tax, taxes, and fees.

(11) The department, an authorized agent of the department, or a county treasurer shall use the online motor vehicle liability insurance verification system provided in 61-6-157 to verify that the vehicle owner has complied with the requirements of 61-6-301.”

Section 4. Section 61-14-101, MCA, is amended to read:

“61-14-101. Rulemaking authority – vehicle services. (1) The department shall adopt rules for the registration of motor vehicles, including:

(a) (i) simultaneous registration of multiple motor vehicles that have common ownership;

(ii) defining the term “fleet” as used in 61-3-318 and 61-3-323; and

(iii) the issuance of fleet series license plates provided for in 61-3-325;

(b) verification of compliance with 61-6-301 before registering or renewing a registration of a vehicle or issuing new license plates required by 61-3-332(3);

(c) devising a method to place license plates on the 5-year reissuance cycle to minimize production peaks and valleys;

(d) early registration renewals when an owner of a motor vehicle presents extenuating circumstances; and

(e) automated mailing of license plates by the department or its authorized agent, including an agent under contract with the department pursuant to 61-3-338; and

(f) provision of the text of the notice provided for in 61-3-303(6)(d) with the mail renewal notice from the department.

(2) The department shall adopt rules to procure compliance with all of the laws of the state regulating the issuance of motor vehicle, trailer, semitrailer, or pole trailer licenses relating to the use and operation of motor vehicles, trailers, semitrailers, or pole trailers before issuing the lettered license plates pursuant to 61-3-423.

(3) The department may adopt rules to establish vehicle brands or carried-forward brands according to 61-3-202.

(4) The department may adopt rules governing affidavit and bond for certificate of title pursuant to 61-3-208.

(5) The department may adopt rules for the implementation and administration of temporary registration permits, pursuant to 61-3-224, including issuance to:

(a) a Montana resident who acquires a new or used motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet or longer, snowmobile, or off-highway vehicle for operation of the vehicle or vessel prior to titling and registration of the vehicle or vessel under Title 61, chapter 3;

(b) the owner of a salvage vehicle or a vehicle requiring a state-assigned vehicle identification number to move the vehicle to and from a designated inspection site prior to applying for a new certificate of title under 61-3-107 or 61-3-212;

(c) the owner of a motor vehicle, trailer, semitrailer, or pole trailer registered in this state for operation of the vehicle while awaiting production and receipt of special or duplicate license plates ordered for a vehicle under Title 61, chapter 3;

(d) a nonresident of this state who acquires a motor vehicle, trailer, semitrailer, or pole trailer in this state for operation of the vehicle prior to its titling and registration under the laws of the nonresident's jurisdiction of residence;

(e) a dealer licensed in another state who brings a motor vehicle or trailer designed and used to apply fertilizer to agricultural lands into the state for special demonstration in this state;

(f) a financial institution located in Montana for a prospective purchaser to demonstrate a motor vehicle that the financial institution has obtained following repossession;

(g) an insurer or its agent to move a motor vehicle or trailer to auction following acquisition of the vehicle by the insurer as a result of the settlement of an insurance claim;

(h) a nonresident owner to temporarily operate a quadricycle or motorcycle designed for off-road recreational use on the highways of this state when the quadricycle or motorcycle designed for off-road recreational use is equipped for use on the highways as prescribed in Title 61, chapter 9, but the quadricycle or motorcycle designated for off-road recreational use is not registered or is only registered for off-road use in the nonresident's home state; or

(i) a new owner of a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for which the new owner cannot, due to circumstances beyond the new owner's control, surrender a previously assigned certification of title.

(6) The department may adopt rules for the assessment and collection of registration fees on light vehicles under 61-3-321 and 61-3-562, including the proration of fees under 61-3-520 and criteria for determining the motor vehicle's age.

(7) The department may adopt rules for imposing and collecting fees in lieu of tax, including:

(a) the proration of fees in lieu of tax under 61-3-520 on buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors;

(b) criteria for determining the motor vehicle's age; and

(c) criteria for determining the manufacturer's rated capacity.

(8) The department may adopt rules, pursuant to Title 61, chapter 3, for the administration of fees for trailers, semitrailers, and pole trailers, including criteria for determining a trailer's age and weight.

(9) The department shall adopt rules for generic specialty license plates issued pursuant to 61-3-472 through 61-3-481, including:

(a) the minimum and maximum number of characters that a generic specialty license plate may display;

(b) the general placement of the sponsor's name, identifying phrase, and graphic; and

(c) any specifications or limitations on the use or choice of color or detail in the sponsor's graphic design.

(10) The department may adopt rules governing dealers pursuant to the provisions of Title 61, chapter 4, including:

(a) the application and issuance of dealer licenses, including the qualifications of dealers, and the staggering of expiration dates pursuant to 61-4-101;

(b) the issuance of dealer, demonstrator, loaner, courtesy, and transit plates pursuant to 61-4-102, 61-4-128 through 61-4-130, 61-4-301, 61-4-307, and 61-4-308;

(c) the application and process for renewing a dealer license pursuant to 61-4-124; and

(d) governing the regulation of persons required to be licensed pursuant to Title 61, chapter 4, part 2.

(11) The department may adopt rules for local option tax appeals pursuant to 15-15-201.

(12) The department may adopt rules to implement any other provision of this title."

Section 5. Appropriation. For the biennium beginning July 1, 2025, there is appropriated \$600,000 from the traumatic brain injury account established in 2-15-2218 to the department of public health and human services for the purposes described in 2-15-2218.

Approved May 5, 2025

CHAPTER NO. 441

[HB 345]

AN ACT CLARIFYING THE DEPARTMENT AND COMMISSION ROLES IN TRANSIT; AND AMENDING SECTION 60-2-129, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 60-2-129, MCA, is amended to read:

“60-2-129. Allocation of funds. (1) The commission may allocate federal-aid highway funds for projects or programs in which all or a portion of the work is on highways that are not located on the highway systems defined in 60-1-103. The allocations must be made without regard to the financial district in which the project or program is located.

(2) ~~Within the programs under its jurisdiction, the commission~~ *The department* shall allocate all federal transit administration funds, freight assistance funds, or any funds or grants available by legislative appropriation for the study, design, construction, repair, or improvement of rail or transit intermodal transportation systems.

(3) The commission may authorize the transfer of federal funds between qualified programs, including highway and transit programs.

(4) The commission may delegate ~~the commission~~ functions and responsibilities under this section to the department.”

Approved May 5, 2025

CHAPTER NO. 442

[HB 346]

AN ACT EXEMPTING DEPARTMENT OF COMMERCE GRANT AND LOAN PROGRAMS FROM REVIEW UNDER THE MONTANA ENVIRONMENTAL POLICY ACT; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Exemption from environmental review. The department is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when authorizing loans, administering a loan program, or creating a loan program related to microbusiness development pursuant to this part.

Section 2. Exemption from environmental review. The department of commerce is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when authorizing grants, administering a grant program, or creating a grant program related to historic preservation pursuant to this part.

Section 3. Exemption from environmental review. The department is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when authorizing grants, administering a grant program, or creating a grant program related to workforce training pursuant to this part.

Section 4. Exemption from environmental review. The department of commerce, the state-tribal economic development commission, and heritage

preservation and cultural tourism commissions created as provided in 90-1-162 are exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when authorizing grants or loans, administering a grant or loan program, or creating a grant or loan program related to agritourism, heritage and cultural tourism, business investments in historic downtown and commercial areas, Montana-based films, regional development corporations, sites and programs associated with the Lewis and Clark expedition, small businesses, or tourism pursuant to this part.

Section 5. Exemption from environmental review. The department is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when authorizing grants or loans, administering a grant or loan program, or creating a grant or loan program related to economic development projects pursuant to this part.

Section 6. Exemption from environmental review. The department of commerce is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when authorizing loans, administering a loan program, or creating a loan program related to the Montana wood products industry pursuant to this part.

Section 7. Exemption from environmental review. The department and the board of housing are exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when authorizing loans, administering a loan program, or creating a loan program related to the financing of housing pursuant to this part.

Section 8. Exemption from environmental review. The board of housing is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when authorizing loans, administering a loan program, or creating a loan program related to reverse annuity mortgage loans to elderly citizens.

Section 9. Exemption from environmental review. The board is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when authorizing loans, administering a loan program, or creating a loan program related to the veterans' home loan mortgage program.

Section 10. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 11. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 17, chapter 6, part 4, and the provisions of Title 17, chapter 6, part 4, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 22, chapter 3, part 13, and the provisions of Title 22, chapter 3, part 13, apply to [section 2].

(3) [Section 3] is intended to be codified as an integral part of Title 39, chapter 11, part 2, and the provisions of Title 39, chapter 11, part 2, apply to [section 3].

(4) [Section 4] is intended to be codified as an integral part of Title 90, chapter 1, part 1, and the provisions of Title 90, chapter 1, part 1, apply to [section 4].

(5) [Section 5] is intended to be codified as an integral part of Title 90, chapter 1, part 2, and the provisions of Title 90, chapter 1, part 2, apply to [section 5].

(6) [Section 6] is intended to be codified as an integral part of Title 90, chapter 1, part 5, and the provisions of Title 90, chapter 1, part 5, apply to [section 6].

(7) [Section 7] is intended to be codified as an integral part of Title 90, chapter 6, part 1, and the provisions of Title 90, chapter 6, part 1, apply to [section 7].

(8) [Section 8] is intended to be codified as an integral part of Title 90, chapter 6, part 5, and the provisions of Title 90, chapter 6, part 5, apply to [section 8].

(9) [Section 9] is intended to be codified as an integral part of Title 90, chapter 6, part 6, and the provisions of Title 90, chapter 6, part 6, apply to [section 9].

Section 12. Effective date. [This act] is effective July 1, 2025.

Approved May 5, 2025

CHAPTER NO. 443

[HB 349]

AN ACT ESTABLISHING PROVISIONS FOR RETIREES UNDER THE TEACHERS' RETIREMENT SYSTEM TO RETURN TO WORK FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION WITHOUT LOSING RETIREMENT BENEFITS; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. (Temporary) Reemployment of certain retirees by superintendent of public instruction -- procedure -- definitions.

(1) Subject to the provisions of this section:

(a) a retired member of the teachers' retirement system who has been receiving a retirement allowance for no less than 2 months, except for a disability retirement allowance pursuant to Title 19, chapter 20, part 6, may be employed in a position reportable to the teachers' retirement system on a full-time basis by the superintendent of public instruction for a maximum of 5 years during the lifetime of the retired member without the loss or interruption of any payments or benefits if:

(i) the retired member completed 27 or more years of creditable service prior to retirement; and

(ii) each year, prior to employing a retired member, the superintendent of public instruction certifies to the teachers' retirement system board that after having advertised the position, the employer has been unable to fill the position because the employer has either received no qualified applicants or has not received an acceptance of an offer of employment made to a nonretired member of the teachers' retirement system;

(b) the employer certification required by this section must include the retired member's name and social security number and a copy of the proposed contract of employment for the retired member;

(c) on receipt of the employer's certification and the proposed contract of employment, the teachers' retirement system board shall verify whether the retired member meets the requirements of subsection (1)(a)(i) and shall notify the employer and the retired member of its findings;

(d) a retired member reemployed under this section is ineligible for active membership under 19-20-302 and is ineligible to receive service credit under any retirement system identified in Title 19; and

(e) the board shall report biennially to the education interim committee and the state administration and veterans' affairs interim committee in accordance with 5-11-210 regarding the implementation of and results arising from this section.

(2) An employer employing a retired member pursuant to this section shall contribute monthly to the teachers' retirement system an amount equal to the sum of the contribution rates provided in 19-20-602, 19-20-604, 19-20-605, 19-20-608, and 19-20-609.

(3) A retired member reemployed pursuant to this section is exempt from the earnings and employment limits provided in 19-20-731.

(4) The board may adopt rules to implement this section.

(5) As used in this section, the following definitions apply:

(a) "Employer" means the superintendent of public instruction as described in 20-3-101 that employs a retired member of the teachers' retirement system.

(b) "System" means the teachers' retirement system.

(c) "Year" means all or any part of a fiscal year running July 1 through June 30.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 19, chapter 20, part 7, and the provisions of Title 19, chapter 20, part 7, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Termination. [This act] terminates June 30, 2031.

Approved May 5, 2025

CHAPTER NO. 444

[HB 350]

AN ACT PROHIBITING THE ENFORCEMENT OF POLICIES ISSUED BY CERTAIN INTERGOVERNMENTAL ENTITIES IN THE STATE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Prohibition against enforcement of or reliance on requirements or mandates issued by certain intergovernmental entities. (1) The world health organization, the united nations, and the world economic forum have no jurisdiction in this state. The state and its political subdivisions, including but not limited to any county, city, municipal corporation, consolidated city-county, school district, special improvement or taxing district, or other political subdivision or public corporation, or any entity created by agreement between two or more political subdivisions, may not be compelled to engage in the enforcement of, or any collaboration with the enforcement of, any requirements or mandates issued by the world health organization, the united nations, or the world economic forum.

(2) The state and its political subdivisions may not expend public funds or allocate public resources for the enforcement of any requirement or mandates issued by the world health organization, the united nations, or the world economic forum.

Section 2. Codification instruction. [Section 1] is intended to be codified as a new part of Title 2, chapter 1, and the provisions of Title 2, chapter 1, apply to [section 1].

Section 3. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 445

[HB 351]

AN ACT CLARIFYING THE POINT OF TAXATION FOR GASOLINE AND SPECIAL FUELS TAXES TO THE FIRST LICENSED DISTRIBUTOR WHO OWNS THE GASOLINE OR SPECIAL FUEL AS IT IS WITHDRAWN FROM A TERMINAL OR REFINERY IN THIS STATE OR IMPORTED INTO THIS STATE; REVISING DEFINITIONS; AMENDING SECTIONS 15-70-401, 15-70-402, 15-70-403, 15-70-404, AND 15-70-441, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-70-401, MCA, is amended to read:

“15-70-401. Definitions. As used in this part, the following definitions apply:

(1) “Agricultural use” means use of gasoline or special fuel by a person who earns income while engaging in the business of farming or ranching and who files farm or income reports for tax purposes as required by the United States internal revenue service.

(2) “Aviation fuel” means gasoline or any other liquid fuel by whatever name the liquid fuel may be known or sold, compounded for use in and sold for use in aircraft, including but not limited to any and all gasoline or liquid fuel meeting or exceeding the minimum specifications prescribed by the United States for use by its military forces in aircraft.

(3) (a) “Biodiesel” means a fuel produced from monoalkyl esters of long-chain fatty acids derived from vegetable oils, renewable lipids, animal fats, or any combination of those ingredients. The fuel must meet the requirements of ASTM D6751, also known as the Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels, as adopted by the American society for testing and materials.

(b) Biodiesel is also known as “B-100”.

(4) “Bulk delivery” means placing gasoline or special fuel not intended for resale in storage or containers. The term does not mean gasoline or special fuel delivered into the supply tank of a motor vehicle.

(5) “Cardtrol” or “keylock” means a unique device intended to allow access to a fuel dealer’s unattended pump or dispensing unit for the purpose of delivery of gasoline or special fuel to an authorized user of the unique device.

(6) “Department” means the department of transportation.

(7) (a) “Distributed” means the withdrawal of gasoline or special fuel from a refinery or terminal storage, other than by pipeline, by a licensed distributor for sale or use in this state, ~~including~~.

(b) *Gasoline or special fuel imported into this state, other than gasoline or special fuel placed in storage at a refinery or pipeline terminal, is considered to be distributed after it has arrived in and is brought to rest in this state.*

(c) *The term does not include:*

(i) gasoline or special fuel refined, produced, manufactured, or compounded in this state and placed in *refinery or terminal* storage tanks in this state;

(ii) gasoline or special fuel transferred from a refinery or pipeline terminal in this state and placed in tanks at the refinery or terminal; or

(iii) gasoline or special fuel imported into this state and placed in storage at a refinery or pipeline terminal.

~~(b) Gasoline or special fuel imported into this state, other than gasoline or special fuel placed in storage at a refinery or pipeline terminal, is considered to be distributed after it has arrived in and is brought to rest in this state.~~

(8) (a) "Distributor" means:

(i) a person who engages in the business in this state of producing, refining, manufacturing, or compounding gasoline or special fuel for sale, use, or distribution;

(ii) an importer who imports gasoline or special fuel for sale, use, or distribution;

(iii) a person who engages in the wholesale distribution of gasoline or special fuel in this state and chooses to become licensed to assume the Montana state gasoline tax or special fuel tax liability;

(iv) an exporter; *or*

~~(v) a dealer licensed as of January 1, 1969, except a dealer at an established airport; or~~

~~(vi)~~(v) a person in ~~Montana~~ *this state* who blends ethanol with gasoline.

(b) The term does not include a special biodiesel fuel producer who produces biodiesel from waste vegetable oil feedstock in this state for the operation of motor vehicles owned or controlled by the person on the public roads and highways of the state.

(9) "Ethanol" means nominally anhydrous ethyl alcohol that has been denatured as specified in 27 CFR, parts 20 and 21, and that meets the standards for ethanol adopted pursuant to 82-15-103.

(10) "Ethanol-blended gasoline" means gasoline blended with ethanol. The percentage of ethanol in the blend is identified by the letter "E" followed by the percentage number. A blend that is 10% denatured ethanol and 90% gasoline would be reflected as E-10. A blend that is 85% denatured ethanol and 15% gasoline would be reflected as E-85.

(11) "Export" means to transport out of Montana, by any means other than in the fuel supply tank of a motor vehicle, gasoline or special fuel received from a refinery or pipeline terminal within Montana.

(12) "Exporter" means a person who transports, other than in the fuel supply tank of a motor vehicle, gasoline or special fuel received from a refinery or pipeline terminal in Montana to a destination outside Montana for sale, use, or consumption outside Montana.

(13) (a) "Gasoline" includes:

(i) all petroleum products commonly or commercially known or sold as gasolines, including casinghead gasoline, natural gasoline, aviation fuel, and all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines; and

(ii) any other type of additive when the additive is mixed or blended into gasoline, regardless of the additive's classifications or uses.

(b) "Gasoline" does not include special fuels as defined in this section.

(14) "Import" means to first receive gasoline or special fuel into possession or custody after its arrival and coming to rest at a destination within the state or to first receive any gasoline or special fuel shipped or transported into this state from a point of origin outside this state other than in the fuel supply tank of a motor vehicle.

(15) "Importer" means a person who transports or arranges for the transportation of gasoline or special fuel into Montana for sale, use, or distribution.

(16) “Improperly imported fuel” means gasoline or special fuel that is:

(a) consigned to a Montana destination and imported into the state without the distributor first having obtained a Montana distributor license as required in 15-70-402; or

(b) delivered, possessed, sold, or transferred in the state in any manner not authorized under Title 15, chapter 70.

(17) “Motor vehicle” means all vehicles that are operated on the public roads and highways of this state and that are operated in whole or in part by the combustion of gasoline or special fuel.

(18) “Person” includes any person, firm, association, joint-stock company, syndicate, partnership, or corporation. Whenever the term is used in any clause prescribing and imposing a fine or imprisonment, or both, as applied to a firm, association, syndicate, or partnership, it includes the partners or members and, as applied to joint-stock companies and corporations, the officers.

(19) “Public roads and highways of this state” means all streets, roads, highways, and related structures:

(a) built and maintained with appropriated funds of the United States, the state of Montana, or any political subdivision of the state;

(b) dedicated to public use;

(c) acquired by eminent domain, as provided in Title 60, chapter 4, or Title 70, chapter 30; or

(d) acquired by adverse use by the public, with jurisdiction having been assumed by the state or any political subdivision of the state.

(20) “Special biodiesel fuel producer” means a person who produces less than 2,500 gallons annually of biodiesel fuel from waste vegetable oil feedstock for the operation of motor vehicles owned or controlled by the person on the public roads and highways of the state.

(21) “Special fuel” means those combustible gases and liquids commonly referred to as diesel fuel or any other volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test, except liquid petroleum gas, when actually sold for use in motor vehicles operating on the public roads and highways of this state. The term “special fuel” includes biodiesel and additives of all types when the additive is mixed or blended into special fuel, regardless of the additive’s classifications or uses.

(22) (a) “Special fuel user” means a person who consumes special fuel for the operation of motor vehicles owned or controlled by the person on the public roads and highways of this state.

(b) The term does not include:

(i) the U.S. government, a state, a county, an incorporated city or town, or a school district of this state; or

(ii) a special biodiesel fuel producer who produces biodiesel from waste vegetable oil feedstock for the operation of motor vehicles owned or controlled by the person on the public roads and highways of this state.

(23) “Use” means the operation of a motor vehicle on the public roads and highways of this state or of any political subdivision of this state.

(24) “Waste vegetable oil” means used cooking oil gathered from restaurants or commercial food processors.”

Section 2. Section 15-70-402, MCA, is amended to read:

“15-70-402. License and security of distributors – denial or disciplinary action. (1) (a) Prior to doing business, each gasoline or special fuel distributor, including an exporter and importer, as those terms are defined in 15-70-401, shall file:

(i) an application for a license with the department, on forms prescribed and furnished by the department, setting forth the information that may be requested by the department; and

(ii) security with the department in an amount to be determined by the department.

(b) (i) Except as provided in subsection (1)(b)(ii), the required amount of security may not exceed twice the estimated amount of gasoline or special fuel taxes the distributor will pay to this state each month.

(ii) The minimum required security for a distributor who imports or exports fuel is \$25,000.

(c) ~~Upon~~ *On* approval of the application, the department shall issue to the distributor a nonassignable license that is in force until surrendered, *canceled*, or revoked.

(2) The department may deny the issuance of a distributor license or take disciplinary action against the distributor if it determines that the applicant or distributor:

(a) has violated any provision of this chapter or any rule of the department relating to gasoline or special fuel, or both;

(b) fails to provide the security required by the department;

(c) has had a distributor license revoked or denied by the department or another jurisdiction within a 3-year period;

(d) is not in compliance with motor fuels laws in other jurisdictions; or

(e) fails to pay the gasoline or special fuel tax.

(3) Disciplinary action against a distributor may result in revocation of the license or issuance of a probationary license. At its discretion, the department may issue a probationary license to a distributor who repeatedly fails to report in the manner prescribed. The probationary license must be issued for a specified time period and may require the distributor to attend motor fuel tax training conducted by the department. If a distributor issued a probationary license fails to provide accurate reports by the end of the time period specified by the probationary license, the department may revoke the distributor license.

(4) If an application for a distributor license is denied or revoked or if the distributor is under disciplinary action, the applicant or distributor has the right to appeal the department's decision pursuant to Title 2, chapter 4, part 6.

(5) Only a licensed distributor may withdraw gasoline or special fuel from a refinery or terminal.

(6) Failure to obtain a distributor license as required in this section subjects the distributor to the provisions of 15-70-419 allowing for the seizure, confiscation, and possible forfeiture of the fuel.

(7) As used in this section, "security" means:

(a) a bond executed by a distributor as principal with a corporate surety qualified under the laws of Montana, payable to the state of Montana, and conditioned upon faithful performance of all requirements of this part, including the payment of all taxes and penalties;

(b) a deposit made by the distributor with the department, under the conditions that the department may prescribe; or

(c) certificates of deposit or irrevocable letters of credit issued by a bank and insured by the federal deposit insurance corporation.

(8) The owner of a commercial motor vehicle that is engaged in transporting gasoline or special fuel for a distributor is not subject to the provisions of this section.

(9) A distributor who blends biodiesel must be licensed with the department. If the distributor cannot be licensed, the distributor is required to buy biodiesel fuel on which the special fuel tax has been paid.

(10) A distributor who blends ethanol with gasoline must be licensed by the department. If the distributor cannot be licensed, the distributor is required to buy ethanol-blended gasoline on which the gasoline tax has been paid.”

Section 3. Section 15-70-403, MCA, is amended to read:

“15-70-403. Gasoline, special fuel, and aviation fuel tax – incidence – rates. (1) The incidence of the fuel tax is on the distributor for the privilege of engaging in and carrying on business in this state. Each distributor shall pay to the department of transportation a tax in an amount equal to:

(a) 33 cents for each gallon of gasoline distributed by the distributor within the state and on which the gasoline tax has not been paid by any other distributor;

(b) 29.75 cents for each gallon of special fuel distributed by the distributor within the state and on which the special fuel tax has not been paid by any other distributor; and

(c) 5 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply center, which is allocated to the department as provided by 67-1-301.

(2) The gasoline tax provided for in subsection (1)(a) must be deposited as follows:

(a) the revenue from 22 cents of the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the highway restricted account provided for in 15-70-126;

(b) the revenue from 4 cents of the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the highway patrol administration state special revenue account established in 44-1-110; and

(c) the remaining revenue from the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the local government road construction and maintenance restricted account provided for in 15-70-128.

(3) The special fuel tax provided for in subsection (1)(b) must be deposited as follows:

(a) the revenue from 24.6 cents of the tax to the highway restricted account provided for in 15-70-126;

(b) the revenue from 4 cents of the tax to the highway patrol administration state special revenue account established in 44-1-110; and

(c) the remaining revenue from the tax to the local government road construction and maintenance restricted account provided for in 15-70-128.

(4) (a) *Except as provided in subsection (4)(b), when gasoline, special fuel, or aviation fuel is withdrawn from a refinery or pipeline terminal in this state, the gasoline, special fuel, or aviation fuel is considered to be distributed by the distributor who is the owner of the gasoline, special fuel, or aviation fuel prior to the time of withdrawal.*

(b) *If gasoline, special fuel, or aviation fuel is withdrawn for shipment or delivery to a licensed distributor, it is considered to be distributed by the first licensed distributor to take possession of the gasoline, special fuel, or aviation fuel as shown by the bill of lading issued by the terminal or refinery.*

(5) *Imported gasoline, special fuel, or aviation fuel, except for gasoline, special fuel, or aviation fuel placed in storage at a refinery or pipeline terminal, is considered to be distributed after it arrives and is brought to rest in this state by the person who is the owner of the gasoline, special fuel, or aviation fuel at the time the gasoline, special fuel, or aviation fuel is unloaded from its shipping vessel. If the owner is not licensed as a Montana distributor and if the gasoline, special fuel, or aviation fuel is shipped or delivered in this state by a person who is licensed as a distributor, then the gasoline, special fuel, or aviation fuel is considered to be distributed by the licensed distributor.*

(6) *For the purposes of the tax provided for in this section, gasoline, special fuel, and aviation fuel may not be exchanged tax-free between licensed distributors more than one time.*

(4)(7) Gasoline or special fuel may not be included in the measure of the distributor's tax if it is sold for export unless the distributor is not licensed and is not paying the tax to the state where the fuel is destined.

(5)(8) Special fuel may not be included in the measure of the distributor's tax if it is dyed by injector at a refinery or terminal for off-highway use.

(6)(9) When no Montana fuel tax has been paid by a distributor or any other person, the department shall collect or cause to be collected from the owners or operators of motor vehicles operating on the public roads and highways of this state a tax equal to the tax rate provided for in subsection (1)(a) for gasoline and subsection (1)(b) for dyed or undyed special fuel. The tax must be paid for each gallon of gasoline or special fuel as defined in this part, or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test sold or used to produce motor power to operate motor vehicles on the public roads and highways of this state.

(7)(10) The tax may not be imposed on dyed special fuel delivered into the fuel supply tank of a vehicle that is equipped with a feed delivery box if:

(a) the feed delivery box is permanently affixed to the vehicle;

(b) the vehicle is used exclusively for the feeding of livestock; and

(c) the gross vehicle weight of the vehicle, exclusive of any towed units, is greater than 12,000 pounds.

(8)(11) All special fuel or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test sold or used in motor vehicles, motorized equipment, and the internal combustion of any engines, including stationary engines, and used in connection with any work performed under any contracts pertaining to the construction, reconstruction, or improvement of a highway or street and its appurtenances awarded by any public agencies, including federal, state, county, municipal, or other political subdivisions, must be fuel on which Montana fuel tax has been paid.

(9)(12) Material used for construction, reconstruction, or improvement in connection with work performed under a contract as provided in subsection (8)(11) must be produced using fuel on which Montana fuel tax has been paid."

Section 4. Section 15-70-404, MCA, is amended to read:

"15-70-404. Computation. (1) The tax imposed on the distributor under 15-70-403(1) may be rounded to the nearest whole dollar amount.

(2) The tax imposed under 15-70-403(6)(9) on owners or operators of the motor vehicles operating on the public roads and highways of this state must be computed, with respect to gasoline or special fuel for which the tax has not been paid in this state and that has been consumed by the purchaser, by multiplying the corresponding tax rate per gallon as provided in 15-70-403(1) by the number of gallons of gasoline or special fuel consumed by the person in the operation of motor vehicles on the public roads and highways of this state."

Section 5. Section 15-70-441, MCA, is amended to read:

"15-70-441. Dyed special fuel restrictions – penalties. (1) (a) A person may not use untaxed dyed special fuel in violation of 15-70-403(8) ~~or~~ (9) (11) or (12) or to operate a motor vehicle on the public roads and highways of this state unless:

(i) the motor vehicle has a gross vehicle weight of greater than 12,000 pounds, exclusive of any towed units, is equipped with a feed delivery box that is permanently affixed to the vehicle, and is used solely for the feeding of livestock; or

(ii) the use is permitted pursuant to rules adopted under subsection (1)(c).

(b) (i) The purposeful or knowing use of untaxed dyed special fuel in a motor vehicle operating on the public roads and highways of this state in violation of 15-70-403(8) or (9) (11) or (12) or this subsection (1) is subject to the civil penalty imposed under subsection (1)(b)(ii). Each use is a separate offense. The civil penalty may be in addition to criminal penalties imposed under 15-70-443.

(ii) The department shall, after giving notice and holding a hearing, if requested, impose a civil penalty not to exceed \$1,000 for the first offense and \$5,000 for the second offense for using dyed special fuel in violation of the provisions of this section. A subsequent offense is subject to criminal penalties imposed under 15-70-443.

(c) The department shall adopt and enforce reasonable rules for the movement of off-highway vehicles traveling from one location to another on the public roads and highways of this state when using dyed special fuel or nontaxed fuel.

(2) The operator of the vehicle is liable for the tax imposed in 15-70-403. If the operator refuses or fails to pay the tax, in whole or in part, the seller of the dyed special fuel is jointly and severally liable for the tax imposed under 15-70-403 and for the penalties described in this section if the seller knows or has reason to know that the fuel will be used for a taxable purpose.”

Section 6. Effective date. [This act] is effective July 1, 2026.

Approved May 5, 2025

CHAPTER NO. 446

[HB 354]

AN ACT REQUIRING THE REVOCATION OF HUNTING, FISHING, AND TRAPPING PRIVILEGES FOR ACTS OF CRIMINAL TRESPASS COMMITTED WHILE HUNTING, FISHING, TRAPPING, OR COLLECTING OR ATTEMPTING TO COLLECT ANTLERS, ANTLER SHEDS, OR ANIMAL HORNS; AMENDING SECTION 45-6-203, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 45-6-203, MCA, is amended to read:

“45-6-203. Criminal trespass to property. (1) Except as provided in 15-7-139, 70-16-111, 76-13-116, and subsection (4) of this section, a person commits the offense of criminal trespass to property if the person knowingly:

(a) enters or remains unlawfully in an occupied structure; or

(b) enters or remains unlawfully in or upon the premises of another.

(2) A person convicted of the offense of criminal trespass to property shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

(3) A person convicted of or who forfeits bond or bail for committing an act of criminal trespass ~~involving property owned or administered by the department of fish, wildlife, and parks or while hunting, fishing, or trapping~~ **may must** be subject to revocation of the person’s privilege to hunt, fish, or trap in this state for up to 24 months from the date of conviction or forfeiture *if the trespass occurs on:*

(a) property owned or administered by the department of fish, wildlife, and parks; or

(b) any property, regardless of ownership, if the person is hunting, fishing, trapping, or collecting or attempting to collect antlers, antler sheds, or animal horns.

(4) It does not constitute criminal trespass when a person who lacks proof of vaccination or vaccination status or fails to wear a specific medical device, such as masks or other facial coverings, enters or remains in a public place paid for in whole or in part with taxpayer funds where proof of vaccination or use of medical devices, such as masks or other facial coverings, is required.”

Section 2. Applicability. [This act] applies to violations charged on or after [the effective date of this act].

Approved May 5, 2025

CHAPTER NO. 447

[HB 355]

AN ACT CLARIFYING THAT RELATED EASEMENTS RIGHTS ARE RETAINED WHEN A CANAL OR DITCH IS CONVERTED INTO A PIPELINE; AND AMENDING SECTION 70-17-112, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 70-17-112, MCA, is amended to read:

“70-17-112. Interference with canal or ditch easements prohibited.

(1) A person with a canal or ditch easement has a secondary easement to enter, inspect, repair, and maintain a canal or ditch or to operate the appropriation works. *A person retains this secondary easement if the canal or ditch is converted into a pipeline and the pipeline is conspicuously marked.*

(2) A person may not encroach ~~upon~~ on or otherwise impair any easement for a canal or ditch used for irrigation or any other lawful domestic or commercial purpose, including carrying return water. *A person may not encroach on or otherwise impair any easement for a canal or ditch under this subsection that has been converted into a pipeline.*

(3) The provisions of subsection (2) do not apply if the holder of the canal ~~or~~, ditch, or pipeline easement consents in writing to the encroachment or impairment.

(4) Each canal or ditch easement obtained by prescription or conveyance is included within the scope of this section. Nothing in this section establishes a secondary easement where none existed prior to April 14, 1981. This section does not affect contracts or agreements concluded prior to April 14, 1981.

(5) If a legal action is brought to enforce the provisions of this section, the prevailing party is entitled to costs and reasonable attorney fees.”

Approved May 5, 2025

CHAPTER NO. 448

[HB 358]

AN ACT INCREASING THE MONTHLY PENSION BENEFIT FOR THE VOLUNTEER FIREFIGHTERS’ COMPENSATION ACT; AMENDING SECTION 19-17-404, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 19-17-404, MCA, is amended to read:

“19-17-404. Amount of pension benefits. (1) A member is eligible to receive a pension benefit as provided in this section.

(2) (a) Except as provided in subsection (2)(c), the full pension benefit paid to an eligible member is ~~\$175~~ \$200 a month.

(b) A partial pension benefit paid to an eligible member is calculated by multiplying the full pension benefit in subsection (2)(a) by a fraction, the numerator of which is the eligible member's years of service and the denominator of which is 20.

(c) Except as provided in subsection (3), the full pension benefit of a member who continued to be an active member after completing 20 years of service must be increased by \$7.50 a month for each additional year of active service the member completed after 20 years of service, up to 30 total years of service.

(3) (a) Subject to subsection (3)(b), the pension benefit of a member who continues to be a member after completing 30 years of credited service must be increased by \$7.50 a month for each additional year of credited service after 30 years if the pension trust fund is actuarially sound and the amortization period for any unfunded liabilities remains 20 years or less.

(b) A member does not have a contract right to any additional pension benefits received pursuant to subsection (3)(a), and the member's monthly benefit must be reduced to the amount provided under subsection (2)(c) if the amortization period for the unfunded liabilities is greater than 20 years.

(c) This subsection (3) applies only to members who retire after July 1, 2011."

Section 2. Effective date. [This act] is effective July 1, 2025.

Approved May 5, 2025

CHAPTER NO. 449

[HB 359]

AN ACT REVISING WORKING RETIREE PROVISIONS UNDER THE TEACHERS' RETIREMENT SYSTEM; ALLOWING RETIRED TEACHERS TO MENTOR NEW TEACHERS; AMENDING SECTION 19-20-734, MCA; AMENDING SECTION 6, CHAPTER 135, LAWS OF 2023; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 19-20-734, MCA, is amended to read:

"19-20-734. (Temporary) Break-in-service requirements. (1) Except as provided in 19-20-732 and subsection (2) of this section, a retired member who first applies for retirement benefits or applies for resumed or recalculated retirement benefits pursuant to 19-20-733:

(a) based on a date of termination of January 1, 2014, through December 31, 2023, may not be employed in a position reportable to the retirement system pursuant to 19-20-731 until the employee has a break in service of 150 calendar days commencing on the first day following the member's date of termination; or

(b) based on a date of termination of January 1, 2024, or later, may not be employed in a position reportable to the retirement system pursuant to 19-20-731 until the employee has a break in service of 120 calendar days commencing on the first day following the member's date of termination.

(2) A retired member may be employed by an employer during the break-in-service period only if:

(a) the retired member:

(i) is employed as a substitute classroom teacher to carry on the duties of a regular, licensed teacher who is temporarily absent *or is employed to mentor a newly hired teacher*;

(ii) performs the service after attaining retired member status; and
(iii) performs the service for no more than 45 days during the break-in-service period; or

(b) the retired member continues employment in a position in which the retired member was appropriately reported to the public employees' retirement system prior to and at the time of retirement with the teachers' retirement system.

(3) If a retired member is employed in a position reportable to the retirement system in violation of this section:

(a) the retired member must be returned to active member status with the retirement system retroactive to the member's date of retirement or the date of resumption of retirement benefits, whichever is later, and the member's retirement benefits must be terminated;

(b) the member shall repay all retirement benefits received in violation of this section, plus interest at the actuarially assumed rate; and

(c) the member and the employer shall pay to the retirement system contributions on all earned compensation paid to the member for service performed during the break-in-service period, plus interest at the actuarially assumed rate.

(4) For purposes of this section, the term "employed in a position reportable to the retirement system" includes any work performed or service provided by a retired member to or on behalf of an employer, including but not limited to work performed or service provided through a professional employer arrangement, an employee leasing arrangement, as a temporary service contractor, or as an independent contractor. (Terminates June 30, 2027 2029--sec. 6, Ch. 135, L. 2023.)

19-20-734. (Effective July 1, 2027 2029) Break-in-service requirements. (1) Except as provided in 19-20-732 and subsection (2) of this section, a retired member who first applies for retirement benefits or applies for resumed or recalculated retirement benefits pursuant to 19-20-733 based on a date of termination of January 1, 2014, or later may not be employed in a position reportable to the retirement system pursuant to 19-20-731 until the employee has a break in service of 150 calendar days commencing on the first day following the member's date of termination.

(2) A retired member may be employed by an employer during the break-in-service period only if:

(a) the retired member:

(i) is employed as a substitute classroom teacher to carry on the duties of a regular, licensed teacher who is temporarily absent;

(ii) performs the service after attaining retired member status; and

(iii) performs the service for no more than 45 days during the break-in-service period; or

(b) the retired member continues employment in a position in which the retired member was appropriately reported to the public employees' retirement system prior to and at the time of retirement with the teachers' retirement system.

(3) If a retired member is employed in a position reportable to the retirement system in violation of this section:

(a) the retired member must be returned to active member status with the retirement system retroactive to the member's date of retirement or the date of resumption of retirement benefits, whichever is later, and the member's retirement benefits must be terminated;

(b) the member shall repay all retirement benefits received in violation of this section, plus interest at the actuarially assumed rate; and

(c) the member and the employer shall pay to the retirement system contributions on all earned compensation paid to the member for service performed during the break-in-service period, plus interest at the actuarially assumed rate.

(4) For purposes of this section, the term “employed in a position reportable to the retirement system” includes any work performed or service provided by a retired member to or on behalf of an employer, including but not limited to work performed or service provided through a professional employer arrangement, an employee leasing arrangement, as a temporary service contractor, or as an independent contractor.”

Section 2. Section 6, Chapter 135, Laws of 2023, is amended to read:

“Section 6. Termination. (1) ~~[Sections Section 1 and—3]~~ terminate terminates June 30, 2027.

(2) ~~[Section 3]~~ terminates June 30, 2029.”

Section 3. Effective date. [This act] is effective July 1, 2025.

Section 4. Termination. [This act] terminates June 30, 2029.

Approved May 5, 2025

CHAPTER NO. 450

[HB 365]

AN ACT REVISING THE AWARD OF COSTS AND ATTORNEY FEES BASED ON LEGISLATIVE CONDUCT; PROHIBITING LEGISLATIVE CONDUCT TO BE CONSIDERED IN A BAD FAITH ANALYSIS; PROVIDING THAT LEGISLATIVE CONDUCT IS INADMISSIBLE FOR A BAD FAITH ANALYSIS OR FOR AWARDING COSTS AND FEES; AMENDING SECTION 25-10-711, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 25-10-711, MCA, is amended to read:

“25-10-711. Award of costs against governmental government entity when suit or defense is frivolous or pursued in bad faith – legislative branch conduct not considered. (1) ~~In~~ *Except as provided in subsection (2), in* any civil action brought by or against the state, a political subdivision, or an agency of the state or a political subdivision, the opposing party, whether plaintiff or defendant, is entitled to the costs enumerated in 25-10-201 and reasonable attorney fees as determined by the court if:

(a) the opposing party prevails against the state, political subdivision, or agency; and

(b) the court finds that the claim or defense of the state, political subdivision, or agency that brought or defended the action was frivolous or pursued in bad faith.

(2) *The conduct of the legislative branch in passing legislation may not be considered in a bad faith analysis. This subsection applies to any award of costs or attorney fees against a government entity regardless of whether the defense is frivolous or pursued in bad faith.*

(2)(3) Costs may be granted pursuant to subsection (1) notwithstanding any other provision of the law to the contrary.”

Section 2. Legislative conduct inadmissible. The conduct of the legislative branch in passing legislation is not admissible in a bad faith analysis or for the purpose of awarding costs or attorney fees against a government entity defending an enactment of the legislature.

Section 3. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 26, chapter 1, part 1, and the provisions of Title 26, chapter 1, part 1, apply to [section 2].

Section 4. Effective date. [This act] is effective on passage and approval.

Section 5. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to all legislation passed and approved on or after commencement of the 69th legislative session.

Approved May 5, 2025

CHAPTER NO. 451

[HB 384]

AN ACT REVISING THE DATES TO APPLY FOR A SPEECH-LANGUAGE PATHOLOGIST OR AUDIOLOGIST LICENSE; AMENDING SECTION 37-15-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-15-303, MCA, is amended to read:

“37-15-303. Qualifications. (1) To be eligible for licensing by the board as a speech-language pathologist or audiologist, the applicant:

(a) must meet the current academic, supervised clinical practicum, and supervised professional experience requirements as defined by board rule; and
(b) shall pass an examination approved by the board.

(2) (a) To be eligible for licensing by the board as a speech-language pathology assistant or an audiology assistant, the applicant:

(i) must have completed the academic requirements as defined by board rule; or

(ii) shall provide evidence to the board that the applicant served as an unlicensed speech-language pathology assistant or an unlicensed audiology assistant sufficient to meet the requirements in subsection (2)(a)(i) for a period prior to ~~January 1, 2024~~ *July 15, 2025*.

(b) The board shall provide by rule the type of evidence and conditions to meet equivalency for current academic experience.

(c) *Licensure for speech-language pathology assistants qualifying under subsection (2)(a)(ii) must be retroactive to the date in which the board rules establishing equivalency were satisfied.*

(3) The standards defined by the board must be equal to or greater than the standards generally accepted as the national norm.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 452

[HB 416]

AN ACT PROVIDING REQUIREMENTS FOR A HOMEOWNERS' ASSOCIATION TO SEEK PERMISSION FOR ENTRY ON REAL PROPERTY; PROVIDING THAT AN OWNER OF REAL PROPERTY MAY REQUIRE THAT THE OWNER OR THE OWNER'S AGENT BE PRESENT; AND PROVIDING A DEFINITION AND EXCEPTIONS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Requirements for entry on real property by agent of a homeowners' association – exceptions. (1) (a) A homeowners' association must receive permission from an owner of real property before an agent of the homeowners' association may enter the property.

(b) When seeking permission for an agent of the homeowners' association to enter the property, the homeowners' association shall:

(i) seek to establish a date and time to enter the property that is convenient to the owner; and

(ii) specify what part of the property the agent of the homeowners' association seeks to access.

(2) An owner of real property may require that the owner or the owner's agent be present when an agent of the homeowners' association enters the property.

(3) This section does not affect any implied license an agent of a homeowners' association has as a member of the public to access the areas of real property generally open to the public, such as sidewalks, front pathways, or the front door of a house.

(4) As used in this section, "homeowners' association" means an association of all the owners of real property within a geographic area defined by physical boundaries that:

(a) is formally governed by a declaration of covenants, bylaws, or both;

(b) may be authorized to impose assessments that, if unpaid, may become a lien on a member's real property; and

(c) may enact or enforce rules concerning the operation of the community or subdivision.

(5) This section does not apply to condominiums where there are common elements that must be accessed by entering the unit and for which the declaration of covenants or bylaws set forth the terms of accessing the unit.

(6) This section does not apply to easements of record that specifically benefit the homeowners' association.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 70, chapter 16, part 1, and the provisions of Title 70, chapter 16, part 1, apply to [section 1].

Approved May 5, 2025

CHAPTER NO. 453

[HB 441]

AN ACT REVISING WATER LAWS TO ALIGN PROVISIONAL WATER RIGHTS WITH FINAL DECREES; CLARIFYING PROCESSES FOR POST-DECREE PETITIONS TO REDUCE, MODIFY, OR REVOKE PERMITS; CLARIFYING POST-DECREE VERIFICATION OF PERMITS AND CHANGES IN APPROPRIATION RIGHTS; AND AMENDING SECTIONS 85-2-313, 85-2-315, AND 85-2-402, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 85-2-313, MCA, is amended to read:

~~"85-2-313. Provisional permit. (1) A permit issued prior to a final determination of existing water rights is provisional and is subject to that final determination. Upon petition, the amount of the appropriation granted in a provisional permit must be reduced, modified, or revoked by the department following a show cause hearing in which it is determined that reduction,~~

modification, or revocation is necessary to protect and guarantee existing water rights determined in the final decree. Because a provisional permit is issued on a reasonable determination of legal availability under 85-2-311(1)(b), in a show cause hearing under this section, legal availability must be determined on a consideration of the final decree in the affected basin or subbasin. A permit authorized prior to the issuance of a final decree pursuant to 85-2-234 in the basin where the permit is located is provisional and is subject to that final decree. A person may not obtain any vested right to an appropriation obtained under a provisional permit by virtue of construction of diversion works, purchase of equipment to apply water, planting of crops, or other action where in which the permit would have been denied or modified if the final decree had been available to the department.

(2) (a) Within 60 days after the issuance of a final decree pursuant to 85-2-234, the department shall serve, by first-class mail, owners of record of existing water rights and provisional permits within the decreed basin with a notice of final decree and opportunity to petition for the reduction, modification, or revocation of a provisional permit located in the decreed basin.

(b) The department shall also provide notice to other interested persons who request service of the notice of final decree from the department.

(c) For basins in which a final decree was issued prior to January 1, 2026, the department shall provide notice by January 31, 2026, in accordance with subsections (2)(a) and (2)(b).

(3) (a) An owner of an existing water right in the decreed basin may file a correct and complete petition to reduce, modify, or revoke a provisional permit issued prior to the final decree in the subject basin. Within 180 days of issuance of the notice required under subsection (2), the petition must be:

(i) made on a form prescribed by the department;

(ii) filed with the department; and

(iii) served by first-class mail on all owners of record of the provisional permit.

(b) The department shall notify the petitioner of any defects in a petition within 60 days of the close of the petition period described in subsection (3)(a). A petition that is not corrected and completed within 30 days of the notice of the defects is terminated. If the department does not notify the petitioner of any defects within 60 days, the petition must be treated as correct and complete.

(c) The department shall provide notice of a correct and complete petition to the petitioner and each owner of record of the provisional permit identified in the petition by first-class mail. Within 60 days of the notice, the owner of a provisional permit identified in a petition may file a response to the petition with the department and serve the response on the petitioner by first-class mail.

(d) The petitioner shall prove by a preponderance of the evidence that:

(i) reduction, modification, or revocation of the provisional permit is necessary to protect the petitioner's existing water right determined in the final decree;

(ii) the provisional permit would have been denied or modified if the final decree had been available to the department; and

(iii) based on the findings of the final decree, water could not be considered legally available at the time of issuance of the permit.

(e) Within 120 days of the close of the 60-day response period provided in subsection (3)(c), the department shall deny the petition or propose to reduce, modify, or revoke the provisional permit based on the information in the petition, the response, the final decree, the records of the department, and other evidence submitted to the department. The department shall consider whether, based on

the final decree, unappropriated waters or legally available water existed at the time the provisional permit was issued.

(i) If the department proposes to reduce, modify, or revoke a provisional permit, the department shall provide the owner of the provisional permit with an opportunity to show cause why the department should not take the proposed action. If the owner of the provisional permit fails to show sufficient cause, the department shall reduce, modify, or revoke the provisional permit in accordance with the department's findings and conclusions.

(ii) A department determination to deny a petition is final.

(4) If no petition to reduce, modify, or revoke a provisional permit is filed pursuant to subsection (3), the department shall issue a certificate of water right in accordance with 85-2-315."

Section 2. Section 85-2-315, MCA, is amended to read:

"85-2-315. Certificate of water right. (1) (a) ~~Upon~~ *On* actual application of water to the proposed beneficial use within the time allowed, the permittee shall notify the department that the appropriation has been completed. The notification must contain a certified statement by a person with experience in the design, construction, or operation of appropriation works describing how the appropriation was completed. The department shall review the certified statement and may then inspect the appropriation, ~~and if it determines that the appropriation has been completed in substantial accordance with the permit, it shall issue the permittee a certificate of water right to verify whether the appropriation was completed in substantial accordance with the terms of the permit, including any reduction or modification pursuant to 85-2-313. The original of the certificate shall be sent to the permittee, and a duplicate shall be kept in the office of the department in Helena.~~

(b) If the department determines that the appropriation has been completed in substantial accordance with the terms, conditions, restrictions, and limitations of the permit approval and any reduction or modification pursuant to 85-2-313, the department shall issue a certificate of water right for the permit.

(c) If the department determines that the appropriation was not completed in substantial accordance with the terms, conditions, restrictions, and limitations of the permit approval, including any reduction or modification pursuant to 85-2-313, the department may, after notice, require the permittee to show cause why the permit should not be modified or revoked pursuant to 85-2-314.

(2) After a final decree is issued in a basin pursuant to 85-2-234, the department shall issue a certificate of water right for a change in appropriation right that is verified or modified pursuant to 85-2-402(9) and (10).

(3) The original of a certificate of water right must be sent to the owner of the permit or change in appropriation right and a duplicate must be maintained in the department's centralized database."

Section 3. Section 85-2-402, MCA, is amended to read:

"85-2-402. Changes in appropriation rights – definition. (1) (a) The right to make a change in appropriation right subject to the provisions of this section in an existing water right, a permit, or a state water reservation is recognized and confirmed. In a change in appropriation right proceeding under this section, there is no presumption that an applicant for a change in appropriation right cannot establish lack of adverse effect prior to the adjudication of other rights in the source of supply pursuant to this chapter. Except as provided in 85-2-410 and subsections (15) and (16) of this section, an appropriator may not make a change in an appropriation right without the approval of the department or, if applicable, of the legislature. An applicant shall submit a correct and complete application.

(b) If an application involves a change in a point of diversion, conveyance, or place of use located on national forest system lands, the application is not correct and complete until the applicant has submitted proof to the department of any written special use authorization required by federal law for the proposed change in occupancy, use, or traverse of national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of water.

(2) Except as provided in subsections (4) through (6), (15), (16), and (18) and, if applicable, subject to subsection (17), the department shall approve a change in appropriation right if the appropriator proves by a preponderance of evidence that the following criteria are met:

(a) The proposed change in appropriation right will not adversely affect the use of the existing water rights of other persons or other perfected or planned uses or developments for which a permit or certificate has been issued or for which a state water reservation has been issued under part 3. For purposes of this section, adverse effects analysis is specific to the proposed change in appropriation right and a determination that water is not legally available pursuant to 85-2-311 does not necessarily mean that an adverse effect will occur.

(b) The proposed means of diversion, construction, and operation of the appropriation works are adequate, except for:

(i) a change in appropriation right for instream flow pursuant to 85-2-320 or 85-2-436;

(ii) a temporary change in appropriation right for instream flow pursuant to 85-2-408; or

(iii) a change in appropriation right pursuant to 85-2-420 for mitigation or marketing for mitigation.

(c) The proposed use of water is a beneficial use.

(d) The applicant has a possessory interest, or the written consent of the person with the possessory interest, in the property where the water is to be put to beneficial use or, if the proposed change involves a point of diversion, conveyance, or place of use on national forest system lands, the applicant has any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of water. This subsection (2)(d) does not apply to:

(i) a change in appropriation right for instream flow pursuant to 85-2-320 or 85-2-436;

(ii) a temporary change in appropriation right for instream flow pursuant to 85-2-408; or

(iii) a change in appropriation right pursuant to 85-2-420 for mitigation or marketing for mitigation.

(e) If the change in appropriation right involves salvaged water, the proposed water-saving methods will salvage at least the amount of water asserted by the applicant.

(f) The water quality of an appropriator will not be adversely affected.

(g) The ability of a discharge permit holder to satisfy effluent limitations of a permit issued in accordance with Title 75, chapter 5, part 4, will not be adversely affected.

(3) The applicant is required to prove that the criteria in subsections (2)(f) and (2)(g) have been met only if a valid objection is filed. A valid objection must contain substantial credible information establishing to the satisfaction of the department that the criteria in subsection (2)(f) or (2)(g), as applicable, may not be met.

(4) The department may not approve a change in purpose of use or place of use of an appropriation of 4,000 or more acre-feet of water a year and 5.5 or more cubic feet per second of water unless the appropriator proves by a preponderance of evidence that:

- (a) the criteria in subsection (2) are met; and
- (b) the proposed change in appropriation right is a reasonable use. A finding of reasonable use must be based on a consideration of:

- (i) the existing legal demands of water rights on the state water supply, as well as projected legal demands of water rights for future beneficial purposes, including municipal water supplies, irrigation systems, and minimum streamflows for the protection of existing water rights and aquatic life;

- (ii) the benefits to the applicant and the state;

- (iii) the effects on the quantity and quality of water for existing uses in the source of supply;

- (iv) the availability and feasibility of using low-quality water for the purpose for which application has been made;

- (v) the effects on private property rights by any creation of or contribution to saline seep; and

- (vi) the probable significant adverse environmental impacts of the proposed use of water as determined by the department pursuant to Title 75, chapter 1, or Title 75, chapter 20.

(5) The department may not approve a change in purpose of use or place of use for a diversion that results in 4,000 or more acre-feet of water a year and 5.5 or more cubic feet per second of water being consumed unless:

- (a) the applicant proves by clear and convincing evidence and the department finds that the criteria in subsections (2) and (4) are met; and

- (b) for the withdrawal and transportation of appropriated water for out-of-state use, the department then petitions the legislature and the legislature affirms the decision of the department after one or more public hearings.

(6) The state of Montana has long recognized the importance of conserving its public waters and the necessity to maintain adequate water supplies for the state's water requirements, including requirements for federal non-Indian and Indian reserved water rights held by the United States for federal reserved lands and in trust for the various Indian tribes within the state's boundaries. Although the state of Montana also recognizes that, under appropriate conditions, the out-of-state transportation and use of its public waters are not in conflict with the public welfare of its citizens or the conservation of its waters, the following criteria must be met before out-of-state use may occur:

- (a) The department and, if applicable, the legislature may not approve a change in appropriation right for the withdrawal and transportation of appropriated water for use outside the state unless the appropriator proves by clear and convincing evidence and, if applicable, the legislature approves after one or more public hearings that:

- (i) depending on the volume of water diverted or consumed, the applicable criteria and procedures of subsection (2) or (4) are met;

- (ii) the proposed out-of-state use of water is not contrary to water conservation in Montana; and

- (iii) the proposed out-of-state use of water is not otherwise detrimental to the public welfare of the citizens of Montana.

- (b) In determining whether the appropriator has proved by clear and convincing evidence that the requirements of subsections (6)(a)(ii) and (6)(a)(iii) will be met, the department and, if applicable, the legislature shall consider the following factors:

(i) whether there are present or projected water shortages within the state of Montana;

(ii) whether the water that is the subject of the proposed change in appropriation might feasibly be transported to alleviate water shortages within the state of Montana;

(iii) the supply and sources of water available to the applicant in the state where the applicant intends to use the water; and

(iv) the existing legal demands of water rights placed on the applicant's supply in the state where the applicant intends to use the water.

(c) When applying for a change in appropriation right to withdraw and transport water for use outside the state, the applicant shall submit to and comply with the laws of the state of Montana governing the appropriation and use of water.

(7) For any application for a change in appropriation right involving 4,000 or more acre-feet of water a year and 5.5 or more cubic feet per second of water, the department shall give notice of the proposed change in appropriation right in accordance with 85-2-307 and shall hold one or more hearings in accordance with 85-2-309 prior to its approval or denial of the proposed change in appropriation right. The department shall provide notice and may hold one or more hearings upon any other proposed change in appropriation right if it determines that the proposed change in appropriation right might adversely affect the rights of other persons.

(8) The department or the legislature, if applicable, may approve a change in appropriation right subject to the terms, conditions, restrictions, and limitations that it considers necessary to satisfy the criteria of this section, including limitations on the time for completion of the change in appropriation right. The department may extend time limits specified in the change in appropriation right approval under the applicable criteria and procedures of 85-2-312.

(9) ~~Upon~~ *On* actual application of water to the proposed beneficial use within the time allowed, the appropriator shall notify the department that the appropriation has been completed. The notification must contain a certified statement by a person with experience in the design, construction, or operation of appropriation works describing how the appropriation was completed. *The department shall review the certified statement and may inspect the appropriation to verify whether the appropriation was completed in substantial accordance with the terms of the change in appropriation right.*

(a) For a change in appropriation right of an existing water right granted prior to issuance of a final decree in the basin where the existing water right is located, the department shall verify that the elements and conditions of the change in appropriation right are in substantial accordance with the elements of the existing water right as adjudicated in the final decree. If the notice of completion of the change in appropriation of an existing water right was verified prior to issuance of a final decree in the basin where the existing water right is located, the department shall verify that the elements and conditions of the change in appropriation right are in substantial accordance with the elements of the existing water right as adjudicated in the final decree. The department verification is subject to any modifications to the final decree based on an appeal under 85-2-235.

(b) For a change in appropriation right on a provisional permit granted before issuance of a final decree in the basin where the provisional permit is located, the department shall verify that the elements and conditions of the change in appropriation right are in substantial accordance with any modification or reduction of the provisional permit pursuant to 85-2-313. If the notice of

completion for a change in appropriation right was verified by the department prior to an order reducing or modifying the provisional permit pursuant to 85-2-313, the department shall verify that the elements and conditions of the change in appropriation right are in substantial accordance with the reduction or modification of the provisional permit.

(10) If a change in appropriation right is not completed as approved by the department or legislature, ~~or~~ if the terms, conditions, restrictions, and limitations of the change in appropriation right approval are not complied with, *or if the elements of the change in appropriation right are not in substantial accordance with the elements of the existing water right in the final decree or with the reduction or modification of the provisional permit pursuant to 85-2-313*, the department may, after notice and opportunity for hearing, require the appropriator to show cause why the change in appropriation right approval should not be modified or revoked. If the appropriator fails to show sufficient cause, the department may modify or revoke the change in appropriation right approval.

(11) The original of a change in appropriation right approval issued by the department must be sent to the applicant, and a duplicate must be kept in the office of the department in Helena.

(12) A person holding an issued permit or change in appropriation right approval that has not been perfected may change the place of diversion, place of use, purpose of use, or place of storage by filing an application for change in appropriation right pursuant to this section.

(13) A change in appropriation right contrary to the provisions of this section is invalid. An officer, agent, agency, or employee of the state may not knowingly permit, aid, or assist in any manner an unauthorized change in appropriation right. A person or corporation may not, directly or indirectly, personally or through an agent, officer, or employee, attempt to change an appropriation right except in accordance with this section.

(14) The department may adopt rules to implement the provisions of this section.

(15) (a) An appropriator may change an appropriation right for a replacement well without the prior approval of the department if:

(i) the appropriation right is for:

(A) ground water outside the boundaries of a controlled ground water area;

or

(B) ground water inside the boundaries of a controlled ground water area and if the provisions of the rule establishing the controlled ground water area do not restrict a change in appropriation right;

(ii) the change in appropriation right is to replace an existing well and the existing well will no longer be used;

(iii) the rate and volume of the appropriation from the replacement well are equal to or less than that of the well being replaced and do not exceed:

(A) 450 gallons a minute for a municipal well; or

(B) 35 gallons a minute and 10 acre-feet a year for all other wells;

(iv) the water from the replacement well is appropriated from the same aquifer as the water appropriated from the well being replaced; and

(v) a timely, correct and complete notice of replacement well is submitted to the department as provided in subsection (15)(b).

(b) (i) After completion of a replacement well and appropriation of ground water for a beneficial use, the appropriator shall file a notice of replacement well with the department on a form provided by the department.

(ii) (A) The department shall review the notice of replacement well and shall issue an authorization of a change in an appropriation right if all of the criteria in subsection (15)(a) have been met and the notice is correct and complete.

(B) If the replacement well is located on national forest system lands, the notice is not correct and complete under this subsection (15) until the appropriator has submitted proof of any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of constructing the replacement well.

(iii) The department may not issue an authorization of a change in appropriation right until a correct and complete notice of replacement well has been filed with the department. The department shall return a defective notice to the appropriator, along with a description of defects in the notice. The appropriator shall refile a corrected and completed notice of replacement well within 30 days of notification of defects or within a further time as the department may allow, not to exceed 6 months.

(iv) If a notice of replacement well is not completed within the time allowed, the appropriator shall:

(A) cease appropriation of water from the replacement well pending approval by the department; and

(B) submit an application for a change in appropriation right to the department pursuant to subsections (1) through (3).

(c) The provisions of this subsection (15) do not apply to an appropriation right abandoned under 85-2-404.

(d) For each well that is replaced under this subsection (15), the appropriator shall follow the well abandonment procedures, standards, and rules adopted by the board of water well contractors pursuant to 37-43-202.

(e) The provisions of subsections (2), (3), (9), and (10) do not apply to a change in appropriation right that meets the requirements of subsection (15)(a).

(16) (a) An appropriator may change an appropriation right without the prior approval of the department for the purpose of constructing a redundant water supply well in a public water supply system, as defined in 75-6-102, if the redundant water supply well:

(i) withdraws water from the same ground water source as the original well; and

(ii) is required by a state or federal agency.

(b) The priority date of the redundant water supply well is the same as the priority date of the original well. Only one well may be used at one time.

(c) Within 60 days of completion of a redundant water supply well, the appropriator shall file a notice of construction of the well with the department on a form provided by the department. The department may return a defective notice of construction to the appropriator for correction and completion. If the redundant water supply well is located on national forest system lands, the notice is not correct and complete under this subsection until the appropriator has submitted proof of any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of constructing the redundant water supply well.

(d) The provisions of subsections (9) and (10) do not apply to a change in appropriation right that meets the requirements of this subsection (16).

(17) The department shall accept and process an application for a change in appropriation right for instream flow to protect, maintain, or enhance streamflows pursuant to 85-2-320 and this section and to benefit the fishery resource pursuant to 85-2-436 and this section.

(18) (a) An appropriator may change an appropriation right for a replacement point of diversion without the prior approval of the department if:

(i) the existing point of diversion is inoperable due to natural causes or deteriorated infrastructure;

(ii) there are no other changes to the water right;

(iii) the capacity of the diversion is not increased;

(iv) there are no points of diversion or intervening water rights between the existing point of diversion and the replacement point of diversion or the appropriator obtains written waivers from all intervening water right holders;

(v) the replacement point of diversion is on the same surface water source and is located as close as reasonably practicable to the existing point of diversion;

(vi) the replacement point of diversion replaces an existing point of diversion and the existing point of diversion will no longer be used;

(vii) the appropriator can show that the existing point of diversion has been used in the 10 years prior to the notice for change of appropriation right for a replacement point of diversion;

(viii) the appropriator can show the change will not increase access to water availability, change the method of irrigation, if applicable, or increase the amount of water diverted, used, or consumed; and

(ix) a timely, correct and complete notice of replacement point of diversion is submitted to the department as provided in subsection (18)(b).

(b) (i) Within 60 days after completion of a replacement point of diversion, the appropriator shall file a notice of replacement point of diversion with the department on a form provided by the department.

(ii) The department shall review the notice of replacement point of diversion and shall issue an authorization of a change in an appropriation right if all of the criteria in subsection (18)(a) have been met and the notice is correct and complete. The department may inspect the diversion to confirm that the criteria under subsection (18)(a) have been met. If the department issues an authorization of a change in an appropriation right for a replacement point of diversion, the department shall prepare a notice of the authorization and provide notice of the authorization in the same manner as required in 85-2-307 for applications.

(iii) The department may not issue an authorization of a change in appropriation right until a correct and complete notice of replacement point of diversion has been filed with the department. The department shall return a defective notice to the appropriator, along with a description of defects in the notice. The appropriator shall refile a corrected and completed notice of replacement point of diversion within 30 days of notification of defects or within a further time as the department may allow, not to exceed 6 months.

(iv) If a notice of replacement point of diversion is not filed and completed within the time allowed or if the department determines the criteria under subsection (18)(a) have not been met, the appropriator shall:

(A) cease appropriation of water from the replacement point of diversion pending approval by the department; and

(B) submit an application for a change in appropriation right to the department pursuant to subsections (1) through (3).

(c) The provisions of this subsection (18) do not apply to an appropriation right abandoned under 85-2-404.

(d) The provisions of subsections (2), (3), (9), and (10) do not apply to a change in appropriation right that meets the requirements of subsection (18)(a).

(e) (i) An appropriator may file a correct and complete objection with the department alleging that the change in appropriation right for a replacement point of diversion will adversely affect the use of the existing water rights of other persons or other perfected or planned uses or developments for which a permit or certificate has been issued or for which a state water reservation has been issued under Title 85, chapter 2, part 3.

(ii) If the department determines after a contested case hearing between the appropriator and the objector that the rights of other appropriators have been or will be adversely affected, it may revoke the change or make the change subject to terms, conditions, restrictions, or limitations necessary to protect the rights of other appropriators.

(iii) The burden of proof to prove lack of adverse effect at the hearing is on the appropriator changing the point of diversion."

Section 4. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Approved May 5, 2025

CHAPTER NO. 454

[HB 497]

AN ACT REVISING LAWS RELATING TO APPRENTICESHIP PROGRAMS IN THE ELECTRICAL TRADE; ALLOWING FOR COMPLETION OF AN APPROVED APPRENTICESHIP PROGRAM OR A SUBSTANTIAL EQUIVALENT PROGRAM IN THE ELECTRICAL TRADE; PROVIDING A DEFINITION; AMENDING SECTION 37-68-305, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-68-305, MCA, is amended to read:

"37-68-305. Journeyman and residential electricians – application – qualifications – contents of examination. (1) An applicant for a journeyman electrician's license shall furnish written evidence of at least one of the following:

(a) completion of an approved apprenticeship program *under Title 39, chapter 6, or a substantially equivalent program* in the electrical trade;

~~(b) completion of an appropriate training program conducted by a bona fide union or trade association;~~

(c) 8,000 hours of legally obtained practical experience in the wiring for, installing, and repairing of electrical apparatus and equipment for light, heat, and power; or

(d) work in the electrical maintenance field for at least 20,000 hours, accompanied by written certification by the applicant's employer that the employer considers the applicant qualified to take the examination for which the applicant is applying and that the applicant has attained at least 20,000 hours in the electrical maintenance field while working for the employer. A minimum of 8,000 of these hours must be practical experience.

(2) Applications for license and notice to the applicant must be made and given in the same manner as for master electricians' licenses. The examination for a journeyman's license must consist of at least 60 questions designed to fairly test the applicant's knowledge and the applicant's technical application skills in the following subjects:

(a) the national electric code; and

(b) board rules and applicable laws under Title 37.

(3) An applicant for a residential electrician's license shall furnish written evidence of at least one of the following:

(a) completion of an approved residential electrician apprenticeship program *under Title 39, chapter 6, or a substantially equivalent program*;

(b) 4,000 hours of legally obtained practical experience in the wiring for, installing, and repairing of electrical apparatus and equipment for light, heat, and power in residential construction consisting of less than five living units in a single structure;

~~(c) completion of an appropriate training program conducted by a bona fide union or trade association; or~~

~~(d)~~(c) work in the electrical maintenance field for at least 20,000 hours, accompanied by written certification by the applicant's employer that the employer considers the applicant qualified to take the examination for which the applicant is applying and that the applicant has attained at least 20,000 hours in the electrical maintenance field while working for the employer. A minimum of 8,000 of these hours must be practical experience.

(4) Application for license and notice to the applicant must be made and given in the same manner as for master electricians' licenses. The examination for a residential electrician's license must consist of at least 50 questions designed to fairly test the applicant's knowledge and the applicant's technical application skills in the following subjects:

(a) the national electric code; and

(b) board rules and applicable laws under Title 37.

(5) ~~(a)~~ For the purposes of this section, *the following terms apply*:

(a) (i) ~~"electrical~~ *Electrical* maintenance" means the ordinary and customary installations in a plant or onsite in addition to modifications, additions, or repairs that are limited to replacing ballasts, relamping, trouble-shooting motor controls, and replacing motors, breakers, or magnetic starters in a kind-for-kind manner. The term includes the connection of specific items of specialized equipment that can be directly connected to an existing branch circuit panel by means of factory-installed leads.

~~(b)~~(ii) The term does not include installation of a new circuit to operate the equipment described in subsection (5)(a)(i) or installation that requires the size of supply conductors to be increased.

(b) (i) *"Legally obtained practical experience" means experience obtained in accordance with the laws and rules of the jurisdiction in which an applicant obtained the experience and within the applicable laws pertaining to the state electrical board.*

(ii) *The term does not include experience obtained during an apprenticeship that was not completed."*

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 455

[HB 535]

AN ACT GENERALLY REVISING THE UNIFORM CRIMINAL EXTRADITION ACT; PROVIDING AND REVISING DEFINITIONS; REVISING STATUTES TO USE NEW DEFINITIONS AND TERMINOLOGY; REVISING SERVICE PROCEDURES FOR A GOVERNOR'S WARRANT; REVISING THE PROCESS

AND CRITERIA FOR A HABEAS CHALLENGE; REVISING THE PROCESS AND TIMELINES FOR HOLDING A REQUISITIONED PERSON IN CUSTODY; REVISING THE TRANSPORT COST APPROVAL PROCESS; SETTING CONDITIONS AFTER A TRANSPORT; REVISING THE PROCESS FOR A REQUISITION; AND AMENDING SECTIONS 46-30-101, 46-30-102, 46-30-202, 46-30-203, 46-30-204, 46-30-211, 46-30-212, 46-30-213, 46-30-214, 46-30-215, 46-30-217, 46-30-218, 46-30-225, 46-30-226, 46-30-228, 46-30-229, 46-30-302, 46-30-303, 46-30-304, 46-30-401, 46-30-402, 46-30-411, AND 46-30-412, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Timeline for delivering person. After the person is arrested upon a governor's warrant of arrest and rendition of this state, or a waiver of extradition has been executed, the timeline for the transfer of the person to the agent or agents of another state must be set as provided in the federal Extradition Act, 18 U.S.C. 3182, as of December 17, 2024. If a hold exists under 46-30-202, the timeline for the transfer of the person is tolled until the person has been tried and discharged or convicted and punished in this state.

Section 2. Conditions upon return to state. When a person is arrested on a judicial warrant after being returned to this state under 46-30-411, the following conditions must apply:

(1) a person may not be admitted to bail without first appearing before the judge who issued the warrant, unless that judge is unavailable, in which case another judge within the same jurisdiction may consider the matter; and

(2) the person must be held liable for restitution on the transport costs incurred by a governmental entity as provided for in 46-18-241 through 46-18-249.

Section 3. Section 46-30-101, MCA, is amended to read:

“46-30-101. Definitions. As used in this chapter, the term:

(1) “executive authority” includes the governor and any person performing the functions of governor in a state other than this state or the presiding officer of a *federally* recognized Indian tribe within the ~~state of Montana~~ *United States*;

(2) “governor” includes any person performing the functions of governor by authority of the law of this state;

(3) “*governor's warrant of arrest and rendition*” refers to the warrant issued by the governor authorizing the extradition of the person to another state;

(4) “*requisition*” refers to the formal, written extradition demand in the form of a warrant issued by the governor or by the executive authority of a demanding state;

(~~3~~)(5) “state”, when referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States of America or an Indian reservation within the ~~state of Montana~~ *United States*;

(6) “*waiver of extradition*” means a written agreement stipulating the person's consent to be transported to a demanding state through a voluntary waiver of the person's right to provisions relating to bail, the issuance and service of the governor's warrant of arrest and rendition, and the right to obtain a writ of habeas corpus.”

Section 4. Section 46-30-102, MCA, is amended to read:

“46-30-102. Nonwaiver by this state. Nothing contained in this chapter may be considered a waiver by this state of its right, power, or privilege to try the ~~demanded~~ *requisitioned* person for a crime committed within this state or of its right, power, or privilege to regain custody of the person by extradition

proceedings or otherwise for the purpose of trial, sentence, or punishment for a crime committed within this state; nor may any proceedings had under this chapter which result in or fail to result in extradition be considered in any way a waiver by this state of any of its rights, privileges, or jurisdiction.”

Section 5. Section 46-30-202, MCA, is amended to read:

“46-30-202. Prosecution pending in this state at time of requisition.

If a criminal prosecution has been instituted against a person under the laws of this state and is still pending, the governor may surrender the person on *demand requisition* of the executive authority of another state or hold the person until the person has been tried and discharged or convicted and punished in this state.”

Section 6. Section 46-30-203, MCA, is amended to read:

“46-30-203. Extradition of persons who left demanding requisitioning state involuntarily. The governor of this state may also surrender on *demand requisition* of the ~~governor~~ *executive authority* of any other state any person in this state who is charged in the manner provided in 46-30-401 with having violated the laws of the state whose ~~governor~~ *executive authority* is making the *demand requisition*, even though such person left the ~~demanding~~ *requisitioning* state involuntarily.”

Section 7. Section 46-30-204, MCA, is amended to read:

“46-30-204. Extradition of persons not present in demanding requisitioning state when crime committed. The governor of this state may also surrender, on *demand requisition* of the executive authority of any other state, any person in this state charged in such other state in the manner provided in 46-30-211 with committing an act in this state or in a third state intentionally resulting in a crime in the state whose executive authority is making the *demand requisition*. The provisions of this chapter not otherwise inconsistent ~~shall~~ *must* apply to such cases, even though the accused was not in that state at the time of the commission of the crime and has not fled therefrom.”

Section 8. Section 46-30-211, MCA, is amended to read:

“46-30-211. Demand Requisition – form. (1) A *demand requisition* for the extradition of a person charged with a crime in another state may not be recognized by the governor of *this state* unless it is in writing alleging that the accused was present in the ~~demanding~~ *requisitioning* state at the time of the commission of the alleged crime and that after the crime the person fled from the state, except in cases arising under 46-30-204, and accompanied by:

(a) a copy of an indictment found or information supported by an affidavit in the state having jurisdiction of the crime;

(b) a copy of an affidavit made before a magistrate in that state, together with a copy of any warrant that was issued; or

(c) a copy of a judgment of conviction or of a sentence imposed in execution of the judgment or sentence, together with a statement by the executive authority of the ~~demanding~~ *requisitioning* state that the person claimed has escaped from confinement or has broken the terms of the person’s bail, probation, or parole.

(2) The indictment, information, or affidavit made before the magistrate must substantially charge the person ~~demand~~ *requisitioned* with having committed a crime under the law of that state. The copy of the indictment, information, affidavit, judgment of conviction, or sentence must be authenticated by the executive authority making the *demand requisition*.”

Section 9. Section 46-30-212, MCA, is amended to read:

“46-30-212. Investigation by governor. When a *demand requisition* is made upon the governor of this state by the executive authority of another

state for the surrender of a person charged with crime, the governor may call upon the attorney general or any prosecuting officer in this state to investigate or assist in investigating the ~~demand~~ *requisition* and to report to the governor the situation and circumstances of the person ~~demanded~~ *requisitioned* and whether the person ought to be surrendered."

Section 10. Section 46-30-213, MCA, is amended to read:

"46-30-213. Issuance of arrest warrant by governor. (1) If the governor decides that the ~~demand~~ *requisition* should be complied with, the governor shall sign a warrant of arrest *and rendition*, which must be sealed with the state seal and be directed to any peace officer or other person whom the governor may think fit to entrust with the execution of the warrant. The warrant must substantially recite the facts necessary to the validity of its issuance.

(2) *A copy or an abstract of the governor's warrant of arrest and rendition may be submitted electronically to the entity entrusted with the execution of the warrant for the purpose of expediting service of the warrant. The copy or abstract is as effectual in the hands of the entity as if the entity held the original governor's warrant of arrest and rendition."*

Section 11. Section 46-30-214, MCA, is amended to read:

"46-30-214. Recall or reissuance of warrant or ~~alias~~ warrant. The governor may recall the governor's warrant of arrest *and rendition* or may issue another warrant whenever the governor considers it proper."

Section 12. Section 46-30-215, MCA, is amended to read:

"46-30-215. Execution of warrant. The *governor's warrant of arrest and rendition* must authorize the peace officer or other person to whom it is directed to arrest the accused at any time and any place where the accused may be found within the state, to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this chapter, to the duly authorized agent of the ~~demanding~~ *requisitioning* state."

Section 13. Section 46-30-217, MCA, is amended to read:

"46-30-217. Rights of accused persons – habeas corpus. (1) A person arrested *in this state* upon a *governor's warrant of arrest and rendition* pursuant to this chapter may not be delivered over to the agent whom the executive authority ~~demanding~~ *requisitioning* the person has appointed to receive the person unless the person is first taken without delay before a judge of a court of record in this state, who shall inform the person of the ~~demand~~ *requisition* made for the person's surrender and of the crime with which the person is charged and that the person has the right to demand and procure legal counsel.

(2) If the prisoner or the prisoner's counsel states that the prisoner or the prisoner and counsel desire to test the legality of the prisoner's arrest *on the governor's warrant of arrest and rendition*, the judge of the court of record shall remand the prisoner to custody and fix a reasonable time to be allowed the prisoner within which to apply for a writ of habeas corpus. When the writ is applied for, notice of the writ and of the time and place of hearing on the writ must be given to the prosecuting officer of the county in which the arrest was made and in which the accused is in custody and to the agent of the ~~demanding~~ *requisitioning* state. *A governor's warrant of arrest and rendition issued in accordance with the provisions of 46-30-213 and 46-30-215 must be presumed to be valid, and the person named in the warrant must be held in custody at all times and may only be eligible for release on bail if a court finds:*

(a) *that the person in custody is not the same person named in the warrant;*

(b) that the person is not a fugitive from justice under 46-30-201 or otherwise subject to extradition under 46-30-204;

(c) that there is no criminal charge or criminal proceeding pending against the person in the requisitioning state; or

(d) that the documents are not on their face in order.”

Section 14. Section 46-30-218, MCA, is amended to read:

“46-30-218. Penalty for violating accused’s rights. An officer who delivers to the agent for extradition of the ~~demanding~~ *requisitioning* state a person in custody under the governor’s warrant in willful disobedience of 46-30-217 shall be guilty of a misdemeanor and on conviction shall be fined not more than \$1,000 or be imprisoned not more than 6 months, or both.”

Section 15. Section 46-30-225, MCA, is amended to read:

“46-30-225. Guilt or innocence of accused, when inquired into. The guilt or innocence of the accused as to the crime of which the accused is charged may not be inquired into by the governor or in any proceeding after the ~~demand~~ *requisition* for extradition provided for in 46-30-211 has been presented to the governor except as it may be involved in identifying the person held as the person charged with the crime.”

Section 16. Section 46-30-226, MCA, is amended to read:

“46-30-226. Confinement of accused in jail on route. (1) The officer or persons executing the governor’s warrant of arrest *and rendition* or the agent of the ~~demanding~~ *requisitioning* state to whom the prisoner may have been delivered may, when necessary, confine the prisoner in the jail of any county or city through which the prisoner may pass. The keeper of the jail shall receive and safely keep the prisoner until the officer or person having charge of the prisoner is ready to proceed on the route. However, the officer or person is chargeable with the expense of keeping the prisoner.

(2) The officer or agent of a ~~demanding~~ *requisitioning* state to whom a prisoner may have been delivered following extradition proceedings in another state or to whom a prisoner may have been delivered after waiving extradition in the other state and who is passing through this state with a prisoner for the purpose of immediately returning the prisoner to the ~~demanding~~ *requisitioning* state may, when necessary, confine the prisoner in the jail of any county or city through which the officer or agent may pass. The keeper of the jail shall receive and safely keep the prisoner until the officer or agent having charge of the prisoner is ready to proceed on the route. ~~However, the~~ *The* officer or agent is chargeable with the expense of keeping the prisoner. However, the officer or agent shall produce and show to the keeper of the jail satisfactory written evidence of the fact that the officer or agent is actually transporting the prisoner to the ~~demanding~~ *requisitioning* state after a requisition by the executive authority of the ~~demanding~~ *requisitioning* state. The prisoner is not entitled to demand a new requisition while in this state.”

Section 17. Section 46-30-228, MCA, is amended to read:

“46-30-228. Written waiver of extradition proceedings. (1) Any person of this state charged with having committed any crime in another state or alleged to have escaped from confinement or broken the terms of the person’s bail, probation, or parole *in another state* may waive the issuance and service of the warrant provided for in 46-30-213 and 46-30-215 and all other procedures incidental to extradition proceedings, *including provisions related to bail*, by executing or subscribing in the presence of a judge of any court of record within this state a writing which states that the person consents to ~~return to the demanding~~ *be returned to another* state. Before a waiver of *extradition* is executed or subscribed by the person, it is the duty of the judge to inform the person of the person’s rights to *provisions relating to bail and to the*

issuance and service of a *governor's warrant of extradition arrest and rendition* and to obtain a writ of habeas corpus as provided for in 46-30-217.

(2) If and when ~~consent~~ *a waiver of extradition* has been duly executed, ~~it the clerk of court must, without delay, be forwarded forward it~~ to the office of the governor of this state ~~and to be filed in the governor's office~~. The judge shall ~~remand the person to custody without bail and, unless a hold exists under 46-30-202, direct the officer having the person in custody to deliver the person, without delay, the person~~ to the duly accredited agent or agents of the ~~demanding~~ *other state* and shall deliver or cause to be delivered to the agent or agents a copy of the ~~consent~~ *waiver*. *A waiver of extradition lawfully executed in this state may not be revoked after notice of the waiver to the other state.*

(3) This section does not limit the rights of the accused person to return voluntarily and without formality to the ~~demanding~~ *other state before the person executes or subscribes to a waiver of extradition*, nor may this waiver of extradition procedure be considered to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the ~~demanding~~ *other state* or of this state."

Section 18. Section 46-30-229, MCA, is amended to read:

"46-30-229. Prior waiver of extradition. (1) ~~A~~ *When a court is presented with a prior waiver of extradition executed in another state for a person who is alleged to have violated the terms of the person's bail, probation, parole, or any other conditional release from another state and who is held in this state may, the person must be released to the duly authorized agent of that other state without the governor's warrant of arrest and rendition provided for in 46-30-213 if or without a waiver of extradition subscribed to in this state under 46-30-228 after satisfying the following has occurred:*

(a) a ~~district court of record~~ in this state has held a hearing at which the state has presented:

(i) a certified copy of ~~an agreement to waive extradition~~ *a waiver of extradition agreement*, signed by the person or an order from the other state releasing the person on the condition that the person ~~waive~~ *execute a waiver* of extradition;

(ii) a certified copy of the warrant or order from the other state directing the return of the person for violating the terms of the person's release; and

(iii) evidence that the person is the same person named in the warrant or order ~~from the other state~~; and

(b) the ~~district court of record~~ has found that there is probable cause to believe that the person is the same person charged in the warrant or order ~~from the other state~~. Whenever a ~~district court of record~~ makes this finding, it shall, except as provided in subsection (2), order that the person be remanded to custody *without bail* and delivered to agents of the other state *without delay, unless a hold exists under 46-30-202*. The court shall also advise the person of the right to contest the ~~its~~ order by filing a writ of habeas corpus.

(2) If the person wishes to test the validity of the order issued pursuant to subsection (1)(b), the court shall fix a reasonable time for the person to apply for a writ of habeas corpus before the person may be released to agents from the other state. *When the writ is applied for, notice of the writ and of the time and place of hearing on the writ must be given to the prosecuting officer of the county in which the arrest was made and in which the accused is in custody and to the agent of the requisitioning state."*

Section 19. Section 46-30-302, MCA, is amended to read:

"46-30-302. Commitment to await requisition. If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged and, except in

cases arising under 46-30-204, that the person has fled from justice, the judge or magistrate shall by a warrant reciting the accusation commit the person to the county jail for a time *specified in the warrant* not exceeding 30 days ~~and specified in the warrant~~ that will enable the arrest of the accused to be made under a *governor's warrant of the governor arrest and rendition issued in this state* on a requisition of the executive authority of the *requisitioning* state having jurisdiction of the offense unless the accused posts bail as provided in 46-30-303 or until the accused is legally discharged."

Section 20. Section 46-30-303, MCA, is amended to read:

"46-30-303. Bail while awaiting requisition. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond or undertaking with sufficient sureties and in a sum that the judge or magistrate considers proper, conditioned for the prisoner's appearance before the judge or magistrate at a time specified in the bond or undertaking and for the prisoner's surrender to be arrested upon the *governor's warrant of arrest and rendition of the governor of this state.*"

Section 21. Section 46-30-304, MCA, is amended to read:

"46-30-304. Extension of time of commitment or bail. If the accused is not arrested under the ~~warrant of the governor~~ *governor's warrant of arrest and rendition* by the expiration of the time specified in the warrant, bond, or undertaking ~~issued under 46-30-302 and 46-30-303~~, a judge or magistrate may discharge the accused or may recommit the accused for a further period of 60 days or a supreme court justice or ~~district court~~ *judge of a court of record* may again take bail for the accused's appearance and surrender, as provided in 46-30-303, for a period not to exceed 60 days after the date of the new bond or undertaking."

Section 22. Section 46-30-401, MCA, is amended to read:

"46-30-401. Application for issuance of requisition. (1) When the return to this state of a person charged with a crime in this state is required, the prosecuting attorney shall present to the governor a written application for a requisition for the return of the person charged. The application must state the name of the person charged, the crime charged against the person, the approximate time, place, and circumstances of its commission, and the state in which the person is believed to be, including the location of the accused in that state at the time the application is made. The application must certify that in the opinion of the prosecuting attorney the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not being instituted to enforce a private claim.

(2) When the return to this state is required of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of bail, probation, or parole, the prosecuting attorney of the county in which the offense was committed, the board of pardons and parole, or the warden of the institution or sheriff of the county from which the escape was made shall present to the governor a written application for a requisition for the return of the person. The application must state the name of the person, the crime of which the person was convicted, the circumstances of the person's escape from confinement or of the breach of the terms of bail, probation, or parole, and the state in which the person is believed to be, including the location of the person in that state at the time the application is made.

(3) The application must be verified by affidavit, executed in duplicate, and accompanied by two certified copies of the:

(a) indictment returned;

- (b) information and affidavit filed;
- (c) complaint made to the judge or magistrate stating the offense with which the accused is charged;
- (d) judgment of conviction; or
- (e) sentence.

(4) The prosecuting officer, board of pardons and parole, warden, or sheriff may also attach further affidavits and other documents in duplicate that are considered proper to be submitted with the application.

(5) One copy of the application, with the action of the governor indicated by endorsement on the application, and one of the certified copies of the indictment, complaint, information and affidavits, judgment of conviction, or sentence *and other documents included in the application* must be filed in the office of the secretary of state to remain of record in that office. The other copies of all papers must be forwarded with the governor's requisition."

Section 23. Section 46-30-402, MCA, is amended to read:

"46-30-402. Requisition by governor. Whenever the governor of this state *demands requisitions* a person charged with crime or with escaping from confinement or breaking the terms of the person's bail, probation, or parole in this state from the chief executive of any other state or from the chief justice or an associate justice of the supreme court of the District of Columbia authorized to receive a *demand requisition* under the laws of the United States, the governor shall issue a *warrant requisition* under the seal of this state to some agent commanding the agent to receive the person charged if delivered to the agent and convey the person to the proper officer of the county in this state in which the offense was committed."

Section 24. Section 46-30-411, MCA, is amended to read:

"46-30-411. Expenses of bringing fugitives persons back to this state. (1) ~~When the governor of this state, in the exercise of the authority conferred by Article IV, section 2, of the constitution of the United States or by the laws of this state, demands from the executive authority of any state of the United States or of any foreign government the surrender to the authorities of this state of a fugitive from justice who has been found and arrested in that state or foreign government, the accounts of the person employed by the governor to bring back the fugitive must be audited by~~ *When a person charged or convicted of crime in this state has been found and arrested in another state and is to be returned to this state by requisition of the governor or by a waiver of extradition or by a prior waiver of extradition, the expenses payable by this state to the agent authorized by the office of the governor to transport the person must be approved by the office of the governor and paid out of the state treasury.*

(2) An agent of this state authorized to return a ~~fugitive from justice person~~ to this state may use commercial transportation, aircraft, or motor vehicle to return the *fugitive person*. If the *fugitive person* is returned to this state by an officer or employee of the state or of a political subdivision of the state, the agent must be paid travel expenses, as provided for in 2-18-501 through 2-18-503, incurred in returning the *fugitive person* to this state. If the governor's authorized agent contracts for the performance of the transportation with a person or entity who is not an officer or employee of the state or of a political subdivision of the state, the expenses must be paid in accordance with the rate established by the contracting parties, as approved by the office of the governor."

Section 25. Section 46-30-412, MCA, is amended to read:

"46-30-412. Restrictions on compensation for assisting return of fugitive persons. No compensation, fee, or reward of any kind may be paid to or received by a public officer of this state or other person for a service

rendered in procuring from the governor the ~~demand~~ *requisition* mentioned in 46-30-411(1), for the surrender of the ~~fugitive person~~, or for conveying the fugitive to this state or detaining the ~~fugitive person~~ in this state except as provided in 46-30-411.”

Section 26. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 46, chapter 30, part 2, and the provisions of Title 46, chapter 30, part 2, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 46, chapter 30, part 4, and the provisions of Title 46, chapter 30, part 4, apply to [section 2].

Approved May 5, 2025

CHAPTER NO. 456

[HB 538]

AN ACT REVISING STATE EMERGENCY TELEPHONE SYSTEM LAWS; REVISING THE MEMBERSHIP AND DUTIES OF THE 9-1-1 ADVISORY COUNCIL; REVISING LAWS RELATED TO 9-1-1 PLANNING; REVISING LAWS RELATED TO THE COLLECTION AND DISTRIBUTION OF 9-1-1 FEES; REVISING MINIMUM RULEMAKING REQUIREMENTS; REVISING LAWS RELATED TO 9-1-1 GRANTS; AND AMENDING SECTIONS 10-4-105, 10-4-106, 10-4-107, 10-4-108, 10-4-201, 10-4-213, 10-4-214, 10-4-305, AND 10-4-306, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 10-4-105, MCA, is amended to read:

“10-4-105. 9-1-1 advisory council. (1) There is a 9-1-1 advisory council.

(2) The council consists of ~~18~~ *19* members appointed by the governor as follows:

(a) the attorney general or the attorney general’s designee, who serves as presiding officer of the council;

(b) a representative of the department of justice, Montana highway patrol;

(c) a representative of the Montana emergency medical services association;

(d) three representatives of Montana telecommunications providers, including at least one wireless provider;

(e) a representative of the Montana association of public safety communications officials;

(f) two public safety answering point managers, one serving a population of less than 30,000 and one serving a population of greater than 30,000;

(g) a representative of the department of military affairs, disaster and emergency services division;

(h) a representative of the Montana association of chiefs of police;

(i) a representative of the Montana sheriffs and peace officers association;

(j) a representative of the Montana state fire chiefs’ association;

(k) a representative of the Montana state volunteer firefighters association;

(l) a representative of the Montana association of counties;

(m) a representative of the Montana league of cities and towns;

(~~n~~) *a representative of the Montana chapter of the national emergency number association;*

(~~n~~)(o) the state librarian or the state librarian’s designee; and

(~~o~~)(p) the state director of Indian affairs provided for in 2-15-217.

(3) The council is attached to the department for administrative purposes only, as provided in 2-15-121.

(4) The council shall, within its authorized budget, hold quarterly meetings.

(5) Council members shall serve without additional salary but are entitled to reimbursement for travel expenses incurred while engaged in council activities as provided for in 2-18-501 through 2-18-503.”

Section 2. Section 10-4-106, MCA, is amended to read:

“10-4-106. 9-1-1 advisory council duties – consultation by department. The 9-1-1 advisory council shall:

(1) advise the department in its duty to allocate and distribute 9-1-1 fees in accordance with 10-4-305 and to update the allocation and distribution in accordance with rules adopted pursuant to 10-4-108(3);

(2) provide recommendations to the department in determining grants awarded in accordance with 10-4-306; *and*

~~(3) advise the department in the development of a statewide 9-1-1 plan; and~~

~~(4)~~(3) advise the department on significant matters concerning 9-1-1 systems development and 9-1-1 services in the state of Montana, including rulemaking.”

Section 3. Section 10-4-107, MCA, is amended to read:

“10-4-107. Department duties and powers – 9-1-1 planning.

(1) There is a 9-1-1 program administered by the department.

(2) The department shall:

(a) allocate and distribute 9-1-1 fees;

(b) update the allocation and distribution of 9-1-1 fees in accordance with 10-4-305 and rules adopted pursuant to 10-4-108;

(c) provide grants in accordance with 10-4-306. In awarding the grants, the department shall review and approve requests for funding in accordance with 10-4-306.

(d) monitor the expenditure of program funds for:

(i) 9-1-1 purposes by local and tribal governments that host public safety answering points; and

(ii) allowable uses of grant funds by entities;

(e) ~~establish~~ *maintain* a statewide 9-1-1 plan in accordance with subsection (3);

(f) staff and fund the administrative costs of the 9-1-1 advisory council established in 10-4-105;

(g) accept federal funds granted by congress or by executive order and gifts, grants, and donations for the purposes of administering this chapter; and

(h) establish allowable uses of funds by local and tribal governments that host public safety answering points that receive distributions pursuant to 10-4-305 and ensure that funds are expended only for allowable uses.

(3) A statewide 9-1-1 plan must include:

(a) to the maximum extent feasible the use of existing commercial communications infrastructure; and

(b) 9-1-1 system standards and support efforts to migrate legacy technologies to next-generation 9-1-1 technologies when appropriate and to provide for the implementation of future 9-1-1 technologies. Any standards adopted by the department for legacy 9-1-1 technologies or principles adopted for baseline next-generation 9-1-1 technologies must be:

(i) flexible and graduated, while ensuring minimum service levels; and

(ii) based on industry standards.

(4) The department, in fulfilling its duties pursuant to subsection (2), may request necessary information from local and tribal governments. If a local or tribal government does not comply with the request, the department may withhold funding distributions as provided for in 10-4-109.”

Section 4. Section 10-4-108, MCA, is amended to read:

“10-4-108. Rulemaking authority. (1) The department shall adopt rules to implement the provisions of this chapter. The rules must include but are not limited to:

- (a) distribution procedures for funding authorized in 10-4-305(1);
- (b) procedures for grant funding authorized in 10-4-306. The rules for grant funding must include but are not limited to:
 - (i) eligibility requirements for entities applying for grants;
 - (ii) criteria for awarding grants; and
 - (iii) reporting procedures for grant recipients.
- (c) postdisbursement activities by the department to monitor the use of funding by entities, including:

- (i) reporting requirements; and
 - (ii) procedures for repayment of funds expended on activities determined not to meet eligibility requirements.

(2) The department shall adopt rules including but not limited to:

- (a) technology standards, based on industry standards and a statewide 9-1-1 plan, to ensure that public safety answering points meet minimum 9-1-1 services levels; and

- (b) baseline next-generation 9-1-1 principles to facilitate the appropriate deployment of baseline next-generation 9-1-1.

(3) (a) ~~Before January 1, 2022, the~~ The department shall adopt rules for the allocation and distribution of funds in the account provided for in 10-4-304(2)(a) in accordance with ~~10-4-305(2) and (3)~~ 10-4-305 to local and tribal government entities that host public safety answering points.

(b) The rules adopted for allocation must ~~be based on the official final decennial census figures and~~ must ensure that each local and tribal government entity that hosts a public safety answering point receives funding. The allocation must account for:

- (i) historic allocations provided to a local or tribal government entity that hosts a public safety answering point;

- (ii) the population of counties, cities, Indian reservations, or other government entities served by the public safety answering point;

- (iii) population trends; and

- (iv) *call volume of public safety answering points, when that data is available; and*

- (v) other factors determined by the department, in consultation with the 9-1-1 advisory council provided for in 10-4-105, critical to the funding allocation.

(c) The department's allocation may not distribute funds in a manner that discourages public safety answering points from consolidating or combining.

(4) The department shall adopt rules in accordance with the Montana Administrative Procedure Act provided for in Title 2, chapter 4, to implement the provisions of this section.”

Section 5. Section 10-4-201, MCA, is amended to read:

“10-4-201. Fees imposed for 9-1-1 services. (1) Except as provided in 10-4-202 [and for the purpose of 10-4-304(5)]:

- (a) for 9-1-1 services, which do not include prepaid wireless services, ~~included in subsection (1)(c); a fee of 75 cents \$1 a month per for each access line on each subscriber in the state is imposed for the administration of 9-1-1 programs in accordance with 10-4-305; and~~

- (b) ~~a fee of 25 cents a month per access line on each subscriber as defined in 10-4-101(21)(a) in the state is imposed for the grants provided in accordance with 10-4-306; and~~

(c)(b) for prepaid wireless 9-1-1 services, a fee of \$1 ~~per~~ *for each* transaction in the state is imposed on charges for prepaid wireless services.

(2) The subscriber paying for an access line or prepaid wireless service is liable for the fees imposed by this section.

(3) (a) Except as provided in subsection (3)(b), the provider shall collect the fees. The amount of the fees collected by the provider is considered payment by the subscriber for that amount of fees.

(b) For the purposes of collecting the fee imposed in subsection ~~(1)(c)~~ *(1)(b)*, the seller shall collect the fee in accordance with this chapter. The amount of the fees collected by the seller is considered payment by the subscriber for that amount of fees.

(4) Any return made by the provider or seller collecting the fees is prima facie evidence of payments by the subscribers of the amount of fees indicated on the return. (Bracketed language in subsection (1) terminates July 1, 2031--sec. 8, Ch. 200, L. 2021.)”

Section 6. Section 10-4-213, MCA, is amended to read:

“10-4-213. Collection of charge – prepaid wireless services – deduction. (1) (a) Except as provided in subsections (1)(d) and (3), a seller shall collect the fee imposed pursuant to ~~10-4-201(1)(c)~~ *10-4-201(1)(b)* from the subscriber for each transaction occurring in Montana.

(b) The fee imposed pursuant to ~~10-4-201(1)(c)~~ *10-4-201(1)(b)* must be stated separately on an invoice, receipt, or other similar document provided to the subscriber by the seller or otherwise disclosed to the subscriber.

(c) A transaction is considered to have occurred in Montana if:

(i) the sale to the subscriber occurs at a business located in Montana;

(ii) the prepaid wireless service is delivered to the subscriber at a Montana address provided to the seller;

(iii) the seller’s records that are maintained in the ordinary course of business indicate that the subscriber’s address is in Montana, and the records are not made or kept in bad faith;

(iv) the subscriber gives a Montana address during the consummation of the transaction, including the subscriber’s payment instrument, if no other address is available, and the address is not given in bad faith; or

(v) the subscriber’s mobile telephone number is associated with a location in Montana.

(d) If the amount of a prepaid wireless service is denominated as 10 minutes or less or as \$5 or less, a seller is not required to collect the fee imposed pursuant to ~~10-4-201(1)(c)~~ *10-4-201(1)(b)*.

(2) (a) ~~A seller may deduct and retain the entirety of the first quarter’s fees of 2022.~~

~~(b) Beginning in the second quarter of 2022, a seller may deduct and retain 2% of the fee for each transaction collected in accordance with 10-4-201(1)(c)~~ *10-4-201(1)(b)*.

(3) A business entity may collect and remit the fee in accordance with this chapter for each seller directly or indirectly owned or operated by that business entity.”

Section 7. Section 10-4-214, MCA, is amended to read:

“10-4-214. Prepaid wireless services – liability. (1) The prepaid wireless 9-1-1 fee collected pursuant to ~~10-4-201(1)(c)~~ *10-4-201(1)(b)* is the liability of the consumer and not of the seller, except that the seller is liable to remit the prepaid wireless 9-1-1 fee that the seller collects from consumers to the department of revenue in accordance with this chapter, including all fees that the seller collects when the amount of the fee is not separately stated on

an invoice, receipt, or other similar document provided to the consumer by the seller in accordance with 10-4-213(1)(b).

(2) (a) A seller is not liable for damages to a person resulting from or incurred in connection with the provision of or failure to provide 9-1-1 or enhanced 9-1-1 service or for identifying or failing to identify the telephone number, address, location, or name associated with a person or device accessing or attempting to access 9-1-1 or enhanced 9-1-1 service.

(b) A seller is not liable for damages to a person resulting from or incurred in connection with the provision of any lawful assistance to any local government, state, or federal investigative or law enforcement officer in connection with any lawful investigation or other law enforcement activity by the local government, state, or federal investigative or law enforcement officer.

(3) The prepaid wireless 9-1-1 fee collected pursuant to ~~10-4-201(1)(c)~~ *10-4-201(1)(b)* is the only 9-1-1 funding obligation imposed on prepaid wireless services in Montana, and no tax, fee, surcharge, or other charge may be imposed for 9-1-1 funding purposes with respect to the sale, purchase, use, or provision of prepaid wireless services.”

Section 8. Section 10-4-305, MCA, is amended to read:

“10-4-305. Distribution of 9-1-1 systems account by department.

~~(1) Beginning July 1, 2018, and for each quarter after that until the first quarter of the 2023 fiscal year, the department shall distribute the total quarterly balance of the account provided for in 10-4-304(2)(a) as follows:~~

~~(a) each local and tribal government entity that hosts a public safety answering point must receive an allocation of the total quarterly balance of the account equal in proportion to the quarterly share received by the local and tribal government entity that hosts the public safety answering point during the 2017 fiscal year;~~

~~(b) each local and tribal government entity that hosts a public safety answering point must receive an allocation in accordance with subsection (1)(a). The allocation may vary from the amount distributed during the 2017 fiscal year based on the amount collected by the department of revenue in accordance with 10-4-201(1)(a) and (1)(c).~~

~~(2)(1) Beginning July 1, 2022, and in accordance with subsection (3), the The department shall allocate and distribute the total quarterly balance of the account provided for in 10-4-304(2)(a) to local and tribal government entities that host public safety answering points based on rules adopted by the department in accordance with 10-4-108(3).~~

~~(3)(2) Within 1 year after the official final decennial census figures are available, the The department shall update the rules establishing the quarterly allocation and distribution provided for in subsection (2) (1) and allocate and distribute the quarterly balance for each quarter after that until the next update as set forth in the rules.”~~

Section 9. Section 10-4-306, MCA, is amended to read:

“10-4-306. 9-1-1 grants. (1) The department shall, in consultation with the 9-1-1 advisory council created pursuant to 10-4-105, award competitive grants annually using the account established pursuant to 10-4-304(2)(b) for private telecommunications providers and for local and tribal government entities that host public safety answering points. ~~Beginning July 1, 2018, grants~~ Grants must be awarded to private telecommunications providers or to local or tribal government entities that host public safety answering points or to all in accordance with this section and with rules adopted by the department in accordance with 10-4-108.

(2) In accordance with subsection (3), grants may be awarded to private telecommunications providers and to local or tribal government entities that host public safety answering points for:

- (a) emergency telecommunications systems plans;
- (b) project feasibility studies or project plans;
- (c) the implementation, operation, and maintenance of 9-1-1 systems, equipment, devices, and data; and
- (d) the purchase of services that support 9-1-1 systems.

(3) In awarding grants, preference must be given to applications in the following order of priority:

(a) requests by private telecommunications providers or by local or tribal government entities that host public safety answering points by working with a private telecommunications provider; and

(b) requests by local or tribal government entities that host public safety answering points.

(4) Nothing in this section prevents a local or tribal government entity that hosts a public safety answering point in accordance with this section from:

(a) providing grant money received by the local or tribal government entity to a private telecommunications provider for 9-1-1 purposes; or

(b) collaborating with another local or tribal government entity on a joint grant application.”

Approved May 5, 2025

CHAPTER NO. 457

[HB 539]

AN ACT REVISING VETO OVERRIDE POLL PROCESS LAWS; REQUIRING THE SECRETARY OF STATE TO CONDUCT A DAILY TALLY OF LEGISLATOR VETO OVERRIDE VOTES DURING THE POLLING PROCESS; AMENDING SECTION 5-4-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-4-306, MCA, is amended to read:

“5-4-306. Return when legislature not in session. (1) If, on the day the governor desires to return a bill without approval and with objections to the bill to the house in which it originated, that house has adjourned for the day, but not for the session, the governor may deliver the bill with the message to the presiding officer, secretary, clerk, or any member of that house. The delivery is as effectual as though returned in open session if the governor, on the first day the house is again in session, by message, notifies it of the delivery and of the time when and the person to whom the delivery was made.

(2) (a) If the legislature is not in session when the governor vetoes a bill, the governor shall return the bill with the reasons for the veto to the secretary of state.

(b) If the bill was not approved by two-thirds of the members voting on the final vote on the bill, the secretary of state shall within 5 working days of receipt of the bill and veto message mail a copy of the title of the bill and the veto message to each member of the legislature.

(c) (i) If the bill was approved by two-thirds of the members voting on the final vote on the bill, the secretary of state shall poll the members of the legislature.

(ii) The secretary of state shall within 5 working days of receipt of the bill and veto message send by certified mail to each legislator, at an address provided by the legislator, a copy of the bill and the veto message, a ballot, a return envelope, instructions for casting a vote, and notice of the date by which each legislator shall return a vote.

(iii) The date for return must be within 30 days after the date on which the bill, veto message, and voting instructions are sent. A legislator may cast and return a vote by delivering the ballot and return envelope in person or by mailing the ballot in the return envelope by regular mail, postage paid, or by sending the ballot by facsimile transmission to the office of the secretary of state.

(iv) A legislator may not change the legislator's vote after the ballot is received by the secretary of state.

(v) (A) *The secretary of state shall, within 15 days after the date on which the bill, veto message, and voting instructions are sent, conduct a daily tally of the votes returned and publish that daily tally on the secretary of state's website. The daily tally must include the list of legislators who have voted and how they have voted.*

(B) The secretary of state shall tally *all* the votes within 1 working day after the date for return of the votes. If two-thirds or more of the members of each house vote to override the veto, the bill becomes law.

(3) The legislature may reconvene to reconsider any bill vetoed by the governor when the legislature is not in session by using the statutory procedure provided for convening in special session."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 6, 2025

CHAPTER NO. 458

[HB 553]

AN ACT GENERALLY REVISING LAWS RELATED TO THE MILITARY HIGHER EDUCATION ACT; REQUIRING FACULTY TO PROVIDE A MAKE-UP OPPORTUNITY FOR COURSEWORK MISSED BY AN ELIGIBLE STUDENT BECAUSE OF INACTIVE DUTY TRAINING OR ANNUAL TRAINING; DEFINING INACTIVE DUTY TRAINING AND ANNUAL TRAINING; REQUIRING THE ELIGIBLE STUDENT TO PROVIDE NOTICE TO THE FACULTY PRIOR TO THE ABSENCE FOR INACTIVE DUTY TRAINING OR ANNUAL TRAINING; AND AMENDING SECTIONS 20-1-603 AND 20-1-604, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-1-603, MCA, is amended to read:

"20-1-603. Definitions. As used in this part, the following definitions apply:

(1) (a) "Active duty" means federally funded duty performed pursuant to orders issued under Title 10 or Title 32 of the United States Code, state active duty performed pursuant to Article VI, section 13, of the Montana constitution, or state duty for special work performed pursuant to 10-1-505.

(b) The term does not include active duty for regularly scheduled weekend or annual training or active duty ordered by request of the service member.

(2) *“Annual training” means federally funded duty performed pursuant to Title 10, U.S.C., or Title 32, U.S.C.*

(2)(3) *“Educational institution” means an institution of higher education under the jurisdiction of the board of regents.*

(3)(4) *“Eligible student” means a member of a reserve component of the United States armed forces as defined in 38 U.S.C. 101, or of the Montana national guard as defined in 10-1-101.*

(5) *“Inactive duty training” means federally funded duty performed pursuant to Title 10, U.S.C., or Title 32, U.S.C.*

(4)(6) *“Same academic status” means the same:*

(a) certificate or degree program; and

(b) standing or progress within a certificate or degree program.”

Section 2. Section 20-1-604, MCA, is amended to read:

“20-1-604. Student rights. (1) An eligible student may not be denied admission or readmission to an educational institution on the basis of the student’s membership in the reserve component of the United States armed forces or in the Montana national guard.

(2) If an eligible student is ordered to active duty while enrolled in one or more courses at an educational institution, the faculty shall, when consistent with accreditation requirements:

(a) assign a final passing grade in the course if, in the faculty’s judgment, enough of the course requirements have been completed;

(b) assign an incomplete in the course and extend the period of time in which the student may complete course requirements; or

(c) allow the student to withdraw from the course and receive financial credit as provided in 20-1-605.

(3) If an eligible student reenrolls in one or more courses at an educational institution within 12 months after returning from the active duty that interrupted the student’s previous enrollment at the institution, the student must, to the extent possible, be readmitted with the same academic status that the student had when ordered to active duty, unless the student requests or agrees to admission with a different academic status.

(4) (a) *If an eligible student misses an assignment, exam, midterm, or final because of inactive duty training or annual training while enrolled in one or more courses at an educational institution, the eligible student shall provide notice of the absence at least 5 business days ahead of time to the course faculty, unless a shorter notice period is required because of military necessity.*

(b) *If the eligible student provides notice pursuant to subsection (4)(a), the faculty shall, when consistent with accreditation requirements, give the eligible student at least 15 business days to make up the missed assignment, exam, midterm, or final, unless the educational institution certifies that a shorter make-up period is necessary to comply with federal financial aid requirements or graduation requirements.*

(c) *If an educational institution certifies a need for a shorter make-up period pursuant to subsection (4)(b), the make-up period may not be less than 5 business days.”*

Approved May 5, 2025

CHAPTER NO. 459

[HB 554]

AN ACT REMOVING THE REQUIREMENT THAT THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS MANAGE, PROTECT, CLASSIFY,

OR REGULATE WOLVES AS GAME ANIMALS OR FURBEARERS; AND AMENDING SECTION 87-5-131, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-5-131, MCA, is amended to read:

“87-5-131. Process for delisting of gray wolf – management following delisting. (1) If the United States fish and wildlife service removes the Northern Rocky Mountain or gray wolf from the United States’ list of endangered or threatened wildlife, the department is authorized to remove the wolf from the state list of endangered species ~~upon~~ *on* a determination by the department pursuant to this part that the wolf is no longer endangered.

(2) Following state delisting of the wolf, the department shall manage the wolf as a species in need of management. ~~until the department and the commission determine that the wolf no longer needs protection as a species in need of management and can be managed and protected as a game animal or furbearer. Upon making that determination, the commission may declare the wolf a game animal or a furbearer and may regulate the taking of a wolf as a game animal or furbearer.~~

(3) (a) Following state delisting of the wolf, the department, or the department of livestock, pursuant to 81-7-102 and 81-7-103, may control wolves for the protection and safeguarding of livestock if the control action is consistent with a wolf management plan approved by both the department and the department of livestock.

(b) Any wolf management plan approved by the department and the department of livestock must allow the issuance of special kill permits, also known as shoot-on-sight written take authorizations, by the department to landowners or public land permittees who have experienced livestock depredation.”

Approved May 5, 2025

CHAPTER NO. 460

[HB 562]

AN ACT ELIMINATING CERTAIN AGENCY REPORTS; AMENDING SECTIONS 15-70-433, 15-70-450, 17-1-102, 37-1-107, 39-51-706, 53-6-116, 60-3-304, 60-3-309, 61-10-154, 85-1-203, 85-1-501, 87-2-702, AND 90-1-182, MCA; AND REPEALING SECTIONS 5-12-208, 75-1-314, 77-1-820, AND 77-2-366, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-70-433, MCA, is amended to read:

“15-70-433. Refund for taxes paid on biodiesel by distributor or retailer – statement – payment – appropriation – records – report to interim committee. (1) A licensed distributor who pays the special fuel tax under 15-70-403 on biodiesel, as defined in 15-70-401, may claim a refund equal to 2 cents a gallon on biodiesel sold during the previous calendar quarter if the biodiesel is produced entirely from biodiesel ingredients produced in Montana.

(2) The owner or operator of a retail motor fuel outlet may claim a refund equal to 1 cent a gallon on biodiesel on which the special fuel tax has been paid and that is purchased from a licensed distributor if the biodiesel is produced entirely from biodiesel ingredients produced in Montana.

(3) (a) To receive the refund allowed under subsection (1) or (2), the licensed distributor or the owner or operator of a motor fuel outlet shall file a statement within 30 days after the end of each calendar quarter on a form provided by the department.

(b) The statement provided by a licensed distributor must set forth information required by the department, including the gallons of biodiesel sold and the source of ingredients used to produce biodiesel.

(c) The statement provided by the owner or operator of a retail motor fuel outlet must set forth information required by the department, including the gallons of biodiesel purchased.

(4) The payment of the refund allowed by this section must be made by the department within 90 days after the claim for a refund is filed by the licensed distributor or the owner or operator of a retail motor fuel outlet. Tax refund payments under this section are statutorily appropriated, as provided in 17-7-502, from the state general fund.

(5) The records of each licensed distributor or owner or operator of a retail motor fuel outlet must be kept for a period of not more than 3 years and must include receipts, invoices, and other information as the department may require.

(6) The department or its authorized representative may examine the books, papers, or records of any licensed distributor or owner or operator of a retail motor fuel outlet.

~~(7) The department shall report to the transportation interim committee biennially, in accordance with 5-11-210, the number and type of taxpayers claiming the refund under this section, the total amount of the refund claimed, and the department's cost associated with administering the refund."~~

Section 2. Section 15-70-450, MCA, is amended to read:

"15-70-450. Cooperative agreement – motor fuels taxes. (1) In order to prevent the possibility of dual taxation of motor fuels purchased by Montana citizens and businesses on Indian reservations, the department and an Indian tribe may enter into a cooperative agreement. The department may, with the concurrence of the attorney general, include as a member of the negotiating team a representative of the department of justice who has expertise in Indian matters.

(2) The department of transportation shall report the status of cooperative agreement negotiations to the transportation interim committee in accordance with 5-11-210.

~~(3) After negotiations are complete and if the legislature is not in session, an agreement must be presented to the transportation interim committee for review and comment before the final agreement is submitted to the attorney general for approval pursuant to 18-11-105."~~

Section 3. Section 17-1-102, MCA, is amended to read:

"17-1-102. Uniform accounting system and expenditure control.

(1) The department shall establish a system of financial control so that the functioning of the various agencies of the state may be improved, duplications of work by different state agencies and employees may be eliminated, public service may be improved, and the cost of government may be reduced.

(2) The department shall prescribe and install a uniform accounting and reporting system for all state agencies and institutions, reporting the receipt, use, and disposition of all public money and property in accordance with generally accepted accounting principles.

(3) The uniform accounting and reporting system must contain three levels of expenditure. The first level must include general categories, such as personal services, operating expenses, equipment, capital outlay, local

assistance, grants, benefits and claims, transfers, and debt service. The second level of expenditure must include specific categories of expenditures within each first-level category. The third level of expenditure must include specific items of expenditure within each category of the second level.

(4) (a) Except as provided in subsection (4)(b), all state agencies, including units of the university system but excluding community colleges, shall input all necessary transactions to the accounting system prescribed in subsection (2) before the accounts are closed at the end of the fiscal year in order to present the receipt, use, and disposition of all money and property for which the agency is accountable in accordance with generally accepted accounting principles, except that for budgetary control purposes, encumbrances that are required by generally accepted accounting principles to be reported as a reservation of fund balance must be recorded as expenditures and liabilities on the accounting records in accordance with the following requirements:

(i) Goods and services, grants, and local assistance that are paid for with the general fund, in whole or in part, may be encumbered. The general fund encumbrances must be reviewed by the department, and a specific extension plan must be presented by the encumbering agency to the department prior to the fiscal yearend. If a valid extension plan is not received and approved, the department shall delete the encumbrance at fiscal yearend. ~~The department shall present a fiscal yearend report to the office of budget and program planning and to the legislative fiscal analyst on each general fund encumbrance remaining at fiscal yearend. The report must be provided in an electronic format. The department shall provide a copy of the fiscal yearend report to the legislature in accordance with 5-11-210.~~

(ii) Nongeneral fund encumbrances also require a valid extension plan approved by the department at the end of each fiscal year. ~~After 3 years, approved extensions must be included by the department in its fiscal yearend report to the office of budget and program planning and to the legislative finance committee.~~

(b) The state fund provided for in Title 39, chapter 71, part 23, shall report on a calendar year basis."

Section 4. Section 37-1-107, MCA, is amended to read:

"37-1-107. Joint meetings – department duties. (1) The department shall convene a joint meeting once every 2 years of two or more boards that:

(a) have licensees with dual licensure in related professions or occupations;
(b) have licensees licensed by another board in a related profession or with similar scopes of practice, including but not limited to:

- (i) health care boards;
- (ii) mental health care boards;
- (iii) design boards;
- (iv) therapeutic boards; or
- (v) technical boards; or

(c) have issues of joint concern or related jurisdiction with each other.

(2) A quorum is not required for the joint meeting. However, one member from each board shall attend.

~~(3) The department shall report to the economic affairs interim committee in accordance with 5-11-210 with regard to attendance and issues of concern addressed by the boards."~~

Section 5. Section 39-51-706, MCA, is amended to read:

"39-51-706. Department duties – integrity data hub – review of information -- reporting to legislature. The department of labor and industry shall:

(1) engage with and utilize a commercially available database to verify the integrity of the state's unemployment insurance rolls;

(2) on a weekly basis, check the unemployment insurance rolls against the department of corrections list of incarcerated individuals to verify eligibility and ensure program integrity;

(3) on a weekly basis, check the unemployment insurance rolls against the national directory of new hires to verify eligibility;

(4) have the authority to execute a memorandum of understanding with any department, agency, or division for information required to be shared between agencies as outlined in this part; *and*

(5) if it receives information concerning an individual receiving unemployment insurance benefits that indicates a change in circumstances that may affect eligibility, review the individual's case; ~~and~~

~~(6) report to the economic affairs interim committee in accordance with 5-11-210 relating to the administration of this part."~~

Section 6. Section 53-6-116, MCA, is amended to read:

"53-6-116. Medicaid managed care – capitated health care. (1) The department of public health and human services, in its discretion, may develop managed care and capitated health care systems for medicaid recipients.

(2) The department may contract with one or more persons for the management of comprehensive physical health services and the management of comprehensive mental health services for medicaid recipients. The department may contract for the provision of these services by means of a fixed monetary or capitated amount for each recipient.

(3) A managed care system is a program organized to serve the medical needs of medicaid recipients in an efficient and cost-effective manner by managing the receipt of medical services for a geographical or otherwise defined population of recipients through appropriate health care professionals.

(4) The provision of medicaid services through managed care and capitated health care systems is not subject to the limitations provided in 53-6-104. The managed care or capitated health care system that is provided to a defined population of recipients may be based on one or more of the medical assistance services provided for in 53-6-101.

(5) The proposed systems, referred to in subsection (1), must be submitted to the legislative finance committee. The legislative finance committee shall review the proposed systems at its next regularly scheduled meeting and shall provide any comments concerning the proposed systems to the department. ~~The department shall provide a copy of any reports made to the legislative finance committee concerning the proposed systems to the legislature in accordance with 5-11-210.~~

(6) A managed care or capitated health care system, except for a primary care case management service, that requires for implementation a waiver from the centers for medicare and medicaid is subject to the provisions of Title 53, chapter 6, part 7."

Section 7. Section 60-3-304, MCA, is amended to read:

"60-3-304. Duties of department of transportation. (1) The allocation of available funds for the maintenance, repair, and establishment of shared-use paths and the expenditure of funds as authorized by this part are primarily for the maintenance and repair of shared-use paths and for the promotion of traffic safety on the highways, roads, and streets of the state.

(2) The transportation commission shall, when requested, provide technical assistance and advice to cities and counties in carrying out the purpose of this part.

(3) The department of transportation shall:

(a) maintain an inventory of all shared-use paths located in the right-of-way of each state-maintained federal-aid highway in Montana;

~~(b) maintain a plan for maintenance and repair of all the shared-use paths described in subsection (3)(a);~~

~~(c)~~(b) recommend construction and maintenance standards for shared-use paths;

~~(d)~~(c) provide a uniform system of signing shared-use paths that applies to all shared-use paths, whether under the jurisdiction of the commission or a city or county; and

~~(e)~~(d) as provided in 60-3-309, allocate funds in the account established in 61-3-321(21).

(4) (a) Except as provided in subsection (4)(b), shared-use paths may not be used by motorized vehicles.

(b) The transportation commission, a city or county, or the commission jointly with a city or county may authorize the use of snowmobiles on all or a portion of a shared-use path under its jurisdiction."

Section 8. Section 60-3-309, MCA, is amended to read:

"60-3-309. Allocation of funds. (1) Of the total funds in the account established in 61-3-321(21)(a):

(a) in fiscal year 2018 only, an amount not to exceed \$50,000 must be transferred to the department of justice to reprogram the software and equipment of the department and the department's vendor to accommodate the optional fee provided for in 61-3-321(21); and

(b) of the remainder in fiscal year 2018 and for succeeding fiscal years:

(i) 20% of the total must be allocated to the department of transportation to be used for bicycle and pedestrian education throughout the state as provided in 60-3-308(2); and

(ii) 80% of the total must be allocated as provided in subsection (2) by the department of transportation to each of the five districts established in 2-15-2502.

(2) The amount of funds to be allocated to a district is equal to the total amount of optional registration fees provided for in 61-3-321(21)(a) collected in the district divided by the total amount of the optional registration fees provided for in 61-3-321(21)(a) collected for the entire state.

(3) Except as provided in subsection (4), the total funds allocated to a district under subsection (1)(b)(ii) must be used within the district for the maintenance and repair of shared-use paths described in this part. At least 10% of the funds allocated to a district under subsection (1)(b)(ii) must be used to maintain or repair shared-use paths that are not part of the state-maintained federal-aid highway system.

(4) (a) Subject to the provisions of subsection (4)(b), if all of the shared-use paths in the district are maintained and repaired at a level that meets or exceeds the standards established pursuant to ~~60-3-304(3)(c)~~ *60-3-304(3)(b)* or if there are no shared-use paths in the district that are not part of the state-maintained federal-aid highway system, any funds remaining in a fiscal year may be used to construct new shared-use paths within the district.

(b) Prior to the construction or extension of a shared-use path, the department shall enter into a maintenance agreement with the county or municipality, or both, in which the path is proposed to be constructed or extended. The maintenance agreement may provide that maintenance be conducted by the county or the municipality, by both the county and the municipality, by the department, or by a combination of those entities. Based on the maintenance agreement and available funding, the department shall transfer funds from the

account established in 61-3-321(21)(a) to the appropriate county or municipality as provided for in the maintenance agreement. If the maintenance agreement provides for maintenance by the department, the department shall use the funds in the account for that purpose.”

Section 9. Section 61-10-154, MCA, is amended to read:

“61-10-154. Department of transportation to adopt motor carrier safety standards – enforcement – designation of peace officers – duties – violations. (1) As used in this section, the terms “for-hire motor carrier”, “private motor carrier”, “gross vehicle weight rating”, and “gross combination weight rating” have the same meaning as provided in 49 CFR 390.5.

(2) The department of transportation shall adopt, by rule, standards for safety of operations of:

(a) any for-hire motor carrier or any private motor carrier;

(b) any motor vehicle or vehicle combination used in interstate commerce that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater, of 10,001 pounds or more;

(c) any motor vehicle or vehicle combination used in intrastate commerce that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater, of 26,001 pounds or more and that is not a farm vehicle operating solely in Montana;

(d) any motor vehicle that is designed or used to transport at least 16 passengers, including the driver, and that is not used to transport passengers for compensation;

(e) any motor vehicle that is designed or used to transport at least nine passengers, including the driver, for compensation; or

(f) any motor vehicle that is used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with federal hazardous materials regulations in 49 CFR, part 172.

(3) Standards of safety adopted under this section must substantially comply, within allowed tolerance guidelines, to the federal motor carrier safety regulations and the federal hazardous material regulations as applied to motor carriers and vehicles transporting passengers or property in commerce.

(4) The department of transportation shall work with the highway patrol in the enforcement of safety standards adopted pursuant to this section. The highway patrol and the department of transportation shall cooperate to ensure minimum duplication and maximum coordination of enforcement efforts.

(5) In order to enforce compliance with safety standards adopted pursuant to this section, the department of transportation shall designate employees as peace officers. The designated employees must be employed in the administration of the motor carrier services functions of the department of transportation. Each employee designated as a peace officer may:

(a) issue citations and make arrests in connection with violations of safety standards adopted under this section;

(b) issue summonses;

(c) accept bail;

(d) serve warrants for arrest;

(e) make reasonable inspections of cargo carried by commercial motor vehicles;

(f) enforce the provisions of Title 49 of the United States Code and regulations that have been adopted under Title 49 and make reasonable safety inspections of commercial motor vehicles used by motor carriers; and

(g) require production of documents relating to the cargo, driver, routing, or ownership of commercial motor vehicles.

(6) In addition to other enforcement duties assigned under 61-10-141 and this section, an employee of the department of transportation who is appointed as a peace officer pursuant to 61-12-201 or this section:

(a) has the same authority to enforce provisions of the motor carriers law as that granted to the public service commission under 69-12-203;

(b) has the duty to secure or make copies, or both, of all bills of lading or other evidence of delivery for shipment of agricultural seeds, as defined in 80-5-120, that have been sold or are intended for sale in Montana and to forward the copies to the department of agriculture within 24 hours of the date that the bill of lading was obtained;

(c) has the authority, if probable cause exists, to stop and inspect a supply tank connected to the engine of any diesel-powered motor vehicle operating on the public highways of this state in order to determine compliance with Title 15, chapter 70, part 4;

(d) has for vehicle configurations subject to 61-10-141 and this section, the authority to issue a citation:

(i) pursuant to 61-9-520(1)(a) for violation of 61-9-406(6) when the vehicle configuration causes a lane blockage; and

(ii) pursuant to 61-9-520(1)(b) for violation of 61-9-406(6) when the vehicle configuration causes an incident that results in the closure of all lanes in one or both directions of a highway; and

(e) may, on any highway under the jurisdiction of the department of transportation within the exterior boundaries of a reservation whose tribal government has entered into an agreement with the department of transportation pursuant to Title 18, chapter 11, part 1, exercise the authority under this part to issue a citation pursuant to 61-9-520 for violation of 61-9-406(6).

(7) A violation of the standards adopted pursuant to this section is punishable as provided in 61-9-512, and the court, upon conviction, as defined in 61-5-213, shall forward a record of conviction to the department of transportation within 5 days in accordance with 61-11-101.

~~(8) The department of transportation shall report to the transportation interim committee biennially, in accordance with 5-11-210, on its enforcement of the provisions of Title 15, chapter 70, part 4, pursuant to the authority provided in subsection (6)(c) and on any impacts that enforcement has had on the state special revenue fund."~~

Section 10. Section 85-1-203, MCA, is amended to read:

"85-1-203. State water plan. (1) The department shall gather from any source reliable information relating to Montana's water resources and prepare from that information a continuing comprehensive inventory of the water resources of the state. In preparing this inventory, the department may:

(a) conduct studies;

(b) adopt studies made by other competent water resource groups, including federal, regional, state, or private agencies;

(c) perform research or employ other competent agencies to perform research on a contract basis; and

(d) hold public hearings in affected areas at which all interested parties must be given an opportunity to appear.

(2) The department shall formulate and adopt and amend, extend, or add to a comprehensive, coordinated multiple-use water resources plan known as the "state water plan". The state water plan may be formulated and adopted in sections, with some of these sections corresponding with hydrologic divisions of the state. The state water plan must set out a progressive program for the conservation, development, utilization, and sustainability of the state's water

resources and must propose the most effective means by which these water resources may be applied for the benefit of the people, with due consideration of alternative uses and combinations of uses.

(3) Sections of the state water plan must be completed for the Missouri River basin, the Yellowstone River basin, and the Clark Fork and Kootenai River basins, be submitted to the 2035 legislature, and be updated at least every 20 years. These basinwide plans must include:

(a) an inventory of consumptive and nonconsumptive uses associated with existing water rights;

(b) identified data gaps;

(c) an estimate of the amount of surface and ground water needed to satisfy new future demands;

(d) analysis of the effects of frequent drought and of new or increased depletions on the availability of future water supplies;

(e) proposals for the best means to satisfy existing water rights and new water demands, such as an evaluation of opportunities for storage of water by both private and public entities;

(f) possible sources of water to meet the needs of the state; and

(g) any legislation necessary to address water resource concerns in these basins.

(4) (a) The department shall create a basin advisory council in the Missouri River basin, in the Yellowstone River basin, and in the Clark Fork and Kootenai River basins that is inclusive and representative of all water interests and interests in those basins.

(b) The basin advisory councils must consist of key water interests within the basins, including, on recommendation from relevant water user interest groups, at least one representative each from the following groups or organizations:

(i) agricultural;

(ii) conservation;

(iii) industrial;

(iv) irrigation;

(v) municipal;

(vi) recreational;

(vii) tribal;

(viii) watershed; and

(ix) conservation districts.

(c) Each basin advisory council may have up to 20 members.

(d) Each basin advisory council shall make recommendations to the department on the basinwide plans required by subsection (3).

(e) The department may use existing basin councils as a basin advisory council if the composition and purpose of the existing basin council is consistent with this subsection (4).

(5) Before adopting the entire state water plan or any section of the plan, the department shall hold public hearings across the state, or in an area of the state encompassed by a section of the plan if adoption of a section is proposed. Notice of the hearing or hearings must be published for 2 consecutive weeks in a newspaper of general circulation published in each county encompassed by the proposed plan or section of the plan at least 30 days prior to the hearing.

~~(6) The department shall submit to the water policy interim committee and to the legislature in accordance with 5-11-210 the state water plan or any section of the plan or amendments, additions, or revisions to the plan that the department has formulated and adopted.~~

(7)(6) The legislature, by joint resolution, may revise the state water plan.

(8)(7) The department shall prepare a continuing inventory of the ground water resources of the state. The ground water inventory must be included in the comprehensive water resources inventory described in subsection (1) but must be a separate component of the inventory.

(9)(8) The department shall publish the comprehensive inventory, the state water plan, the ground water inventory, or any part of each, and the department may assess and collect a reasonable charge for these publications.

(10)(9) In developing and revising the state water plan as provided in this section, the department shall consult with the water policy committee established in 5-5-231 and solicit the advice of the water policy committee in carrying out its duties under this section.”

Section 11. Section 85-1-501, MCA, is amended to read:

“85-1-501. Survey of power generation capacity. (1) The department shall study the economic and environmental feasibility of constructing and operating a small-scale hydroelectric power generating facility on each of the water projects under its control and shall periodically update those studies as the cost of the electrical energy increases. In determining whether small-scale hydroelectric generation may be economically feasible on a particular project, the department shall consider:

(a)(1) the estimated cost of construction of a facility;

(b)(2) the estimated cost of maintaining, repairing, and operating the facility;

(c)(3) the estimated cost of tying into an existing power distribution channel;

(d)(4) the ability of public utilities or rural electric cooperatives to lease and operate such a facility;

(e)(5) the debt burden to be serviced;

(f)(6) the revenue expected to be derived;

(g)(7) the likelihood of a reasonable rate of return on the investment; and

(h)(8) the potential impacts on water supply and streamflows.

~~(2) The department shall update the energy and telecommunications interim committee and the water policy interim committee in accordance with 5-11-210 on all past and current studies conducted pursuant to this section.”~~

Section 12. Section 87-2-702, MCA, is amended to read:

“87-2-702. Restrictions on special licenses – availability of bear and mountain lion licenses. (1) A person who has killed or taken any game animal, except a deer, an elk, or an antelope, during the current license year is not permitted to receive a special license under this chapter to hunt or kill a second game animal of the same species.

(2) The commission may require applicants for special permits authorized by this chapter to obtain a valid big game license for that species for the current year prior to applying for a special permit.

(3) Except as provided in 87-2-815, a person may take only one grizzly bear in Montana with a license authorized by 87-2-701.

(4) (a) Except as provided in 87-1-271(2), 87-1-275, and 87-2-815, a person who receives a moose, mountain goat, or limited mountain sheep license, as authorized by 87-2-701, with the exception of an antlerless moose or an adult ewe game management license issued under 87-2-104, is not eligible to receive another special license for that species for the next 7 years. For the purposes of this subsection (4)(a), “limited mountain sheep license” means a license that is valid for an area in which the number of licenses issued is restricted.

(b) (1) Except as provided in 87-1-271(2) and 87-2-815, a person who takes a legal ram mountain sheep with at least one horn that is equal to or greater than a three-fourths curl using an unlimited mountain sheep license or a population management license issued pursuant to 87-2-701 is not eligible

to receive another special license for that species for the next 7 years. For the purposes of this subsection (4)(b){(i)}, “unlimited mountain sheep license” means a license that is valid for an area in which the number of licenses issued is not restricted.

~~{(ii) The department shall biennially report to the environmental quality council in accordance with 5-11-210 information on:~~

~~(A) mountain sheep harvested pursuant to this subsection (4) from the Tendoy Mountain herd;~~

~~(B) efforts to collect tissue samples and other biological information from mountain sheep harvested from the Tendoy Mountain herd to determine the immunity of surviving herd members to pneumonia outbreaks; and~~

~~(C) attempts by the department to share tissue samples and other biological information collected from the Tendoy Mountain herd with Washington State University, other public entities, and private entities that research the interaction between mountain sheep and domestic sheep.]~~

~~(5) An application for a wild buffalo or bison license must be made on the same form and is subject to the same license application deadline as the special license for moose, mountain goat, and mountain sheep. (Bracketed language in subsection (4)(b) terminates July 1, 2027--sec. 3, Ch. 186, L. 2017.)~~

Section 13. Section 90-1-182, MCA, is amended to read:

“90-1-182. State assistance to local governments in review of and comment on federal land management proposals – rulemaking.

(1) In carrying out the provisions of 90-1-181, the department of commerce may conduct on behalf of local governments a socioeconomic impact review and analysis of significant federal land management proposals. The department of commerce may use the review and analysis to comment in a timely manner on the federal proposals regarding projected impacts on local government.

(2) The department of commerce may:

(a) establish a minimal procedure for local governments to request from the department a review and analysis of significant federal land management proposals that may have a direct socioeconomic impact on the community for which the local government has requested the review. The request must include sufficient details about the federal land management proposal for the department of commerce to determine a deadline by which the review must be conducted.

(b) contract with a unit of the Montana university system experienced in technical, doctorate-level analysis of the socioeconomic impacts of federal land management proposals to provide an independent economic analysis of the federal proposals; *and*

(c) advocate on behalf of the local government before the agency issuing the federal land management proposals, using the reports generated under this subsection (2); *and*

~~(d) report to the local government interim committee in accordance with 5-11-210, in any year in which there is a request, the number of requests, the types of requests, and the number of responses handled. The department shall post the information under this subsection (2)(d) on its website when a request has been made along with a summary of each requested analysis.~~

~~(3) The department of commerce may adopt rules to implement this section.”~~

Section 14. Repealer. The following sections of the Montana Code Annotated are repealed:

5-12-208. Grant information to be provided to legislative finance committee
-- internet link required.

75-1-314. Reporting requirements.

77-1-820. Reporting requirements.

77-2-366. Land banking and state land cabin and home sites -- reports to environmental quality council.

Approved May 5, 2025

CHAPTER NO. 461

[HB 572]

AN ACT REVISING THE MONTANA CORRECTIONAL ENTERPRISES PRISON INDUSTRIES TRAINING PROGRAM; REQUIRING THE PRISON INDUSTRIES TRAINING PROGRAM TO INCLUDE EDUCATIONAL PROGRAMMING; INCREASING THE ALLOWABLE MAXIMUM SUM OF CONSTRUCTION PROJECTS PERFORMED BY INMATES; ALLOWING THE MONTANA CORRECTIONAL ENTERPRISES PROGRAM TO PROVIDE VOCATIONAL PROGRAMS THAT SUPPORT PRIVATE MARKET DEMAND; ELIMINATING THE REQUIREMENT FOR PRODUCTS AND SERVICES TO BE PROVIDED THROUGH CONTRACTS AND DEALER NETWORKS; DIRECTING THE DEPARTMENT OF CORRECTIONS TO MEET WITH LABOR UNION AND BUILDING TRADES REPRESENTATIVES TO DEVELOP AN PREAPPRENTICESHIP TRAINING PROGRAM FOR INMATES; AMENDING SECTIONS 53-30-131 AND 53-30-132, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Preapprenticeship training program for inmates. The department of corrections shall meet with labor union and building trades representatives for the purposes of developing a preapprenticeship training program for inmates participating in the construction program to help ensure the inmates' successful transition into the construction industry upon release from prison.

Section 2. Section 53-30-131, MCA, is amended to read:

"53-30-131. Montana correctional enterprises prison industries training program -- purpose and scope. (1) There is a Montana correctional enterprises program within the department of corrections to operate a prison industries training program. The Montana correctional enterprises program shall:

(a) prepare inmates for release by providing vocational education training and work programs at facilities owned, operated, and contracted with by the department; and

(b) provide inmates the opportunity to earn money to pay restitution, fines, and fees, to pay for hygiene and commissary items, and to save for their eventual release from incarceration.

(2) The prison industries training program consists of *educational programming*, vocational education, on-the-job training, and production experience. The Montana correctional enterprises program may contract with public and private educational entities to provide this training.

(3) The Montana correctional enterprises program may:

(a) provide training and experience within the prison system in:

(i) cultivation, production, processing, manufacture, repair, construction, refurbishment, service, and related processes involving personal property, including but not limited to such items as crops, milk and milk products, wood products, livestock, furniture, and office and electrical equipment;

- (ii) animal training and boarding;
- (iii) vehicle and equipment maintenance and repair;
- (iv) wildland fire suppression; and
- (v) approved community work programs for governmental entities and not-for-profit organizations;
- (b) provide for the repair and maintenance of property and equipment of institutions or facilities by inmates;
- (c) provide for construction projects, up to the aggregate sum of \$200,000 \$600,000 for each project, performed by inmates. *Construction projects described in this subsection (3)(c) may only be constructed on the grounds of the Montana state prison.* The department of administration may:
 - (i) exempt projects authorized by this subsection (3)(c) from the provisions of Title 18, chapter 2, relating to construction, public bidding, bonding, or contracts; and
 - (ii) exempt inmates who provide labor for those projects from the labor and wage requirements of Title 18, chapter 2, part 4.
 - (d) provide for the manufacture by prison industries of highway, road, and general information signs for the use of the state or any of its political subdivisions, except when the manufacture of the signs is in violation of a collective bargaining contract; ~~and~~
 - (e) provide for the manufacture of motor vehicle license plates and other related articles; *and*
 - (f) *provide vocational programs that support private market demand.*
- (4) The Montana correctional enterprises program may provide its products and services to government agencies, school districts, and nonprofit and for-profit organizations ~~through contracts and dealer networks~~. Furniture, print, and sign shop products may be sold to the general public ~~only through dealer networks~~.
- (5) Except as provided in subsection (6), furniture made in the prison may be purchased by state agencies in accordance with the procurement provisions under Title 18, chapter 4.
- (6) Any state institution, facility, or program operated by the department of corrections may purchase prison-made ~~furniture~~ *goods* without complying with the procurement provisions under Title 18, chapter 4.
- (7) The Montana correctional enterprises program may donate surplus food grown or produced at the prison to local food banks, nonprofit organizations, and low-income persons.
- (8) The Montana correctional enterprises program is authorized to sell livestock on the open market."

Section 3. Section 53-30-132, MCA, is amended to read:

"53-30-132. (Temporary) Inmate participation and status in prison work programs – Montana correctional enterprises prison industries training program – wages and benefits. (1) Able-bodied persons committed to a state prison as adult offenders may be required to perform work as provided for by the department of corrections, including work in the Montana correctional enterprises prison industries training program involving the manufacture of products or the rendering of services. In order to ensure the public safety, the department may secure inmates performing work.

(2) The Montana correctional enterprises prison industries training program may:

- (a) obtain federal certification, as required by federal law, of specific prison industries programs in order to gain access to interstate markets for prison industries products;

(b) print catalogs describing goods manufactured or produced by prison industries and distribute the catalogs;

(c) fix the sale price for goods produced or manufactured by prison industries. Prices may be set according to market standards and prices for goods or services of comparable quality. The price of products must include the cost of all raw materials and labor used to manufacture or produce the product.

(d) require a correctional facility to purchase needed goods and services from the Montana correctional enterprises program.

(3) The Montana correctional enterprises program may:

(a) pay an inmate from receipts from the sale of products produced or manufactured or services rendered in a program in which the inmate is working;

(b) collect 15% of the gross wages paid to an inmate employed in a federally certified prison industries program to satisfy any unpaid court-ordered obligations, including restitution on previously discharged sentences for which restitution remains owing. If the inmate's court-ordered obligations have been fully paid or no restitution was ordered, the Montana correctional enterprises program shall collect 15% of the gross wages paid to an inmate for transfer quarterly to the crime victims compensation and assistance program in the department of justice for deposit in the account provided for in 53-9-113.

(c) collect charges for room and board from an inmate employed in a federally certified prison industries program. The Montana correctional enterprises program shall deposit inmates' room and board charges into its enterprise fund to help defray the cost of prison industries training programs.

(4) While engaged in on-the-job training and production, inmates not ~~employed~~ *working* in a federally certified prison industries program may be paid a wage in accordance with subsection (5). Inmates employed in a federally certified prison industries program must be paid as provided in subsection (5)(b).

(5) (a) Except as provided in subsection (5)(b), the maximum rate of pay must be determined by the appropriation established for the program, and payment for the performance of work may be based on the following criteria:

(i) knowledge and skill;

(ii) attitude toward authority;

(iii) physical effort;

(iv) responsibility for equipment and materials; and

(v) regard for safety of others.

(b) Inmates employed in a federally certified prison industries program must be paid the federal minimum wage or be paid at a rate not less than the rate paid for similar work in the locality where the inmate performs the work as determined by the federal bureau of justice.

(6) Premiums for workers' compensation and occupational disease coverage for federally certified prison industries programs must be paid by the Montana correctional enterprises prison industries training program or by the department of corrections. If the department of corrections pays the premium, reimbursement for premium payments for workers' compensation and occupational disease coverage must be made to the department of corrections by the private company contracting with the federally certified prison industries program for services and products.

(7) Inmates not working in a federally certified prison industries program are not employees, either public or private, and employment rights accorded other classes of workers do not apply to the inmates. Inmates working in a federally certified prison industries program are entitled to coverage and

benefits as provided in 39-71-744. (Terminates June 30, 2027--secs. 1, 2, 3, Ch. 139, L. 2021.)

53-30-132. (Effective July 1, 2027) Inmate participation and status in prison work programs – Montana correctional enterprises prison industries training program – wages and benefits. (1) Able-bodied persons committed to a state prison as adult offenders may be required to perform work as provided for by the department of corrections, including work in the Montana correctional enterprises prison industries training program involving the manufacture of products or the rendering of services. In order to ensure the public safety, the department may secure inmates performing work.

(2) The Montana correctional enterprises prison industries training program may:

(a) obtain federal certification, as required by federal law, of specific prison industries programs in order to gain access to interstate markets for prison industries products;

(b) print catalogs describing goods manufactured or produced by prison industries and distribute the catalogs;

(c) fix the sale price for goods produced or manufactured by prison industries. Prices may be set according to market standards and prices for goods or services of comparable quality. The price of products must include the cost of all raw materials and labor used to manufacture or produce the product.

(d) require a correctional facility to purchase needed goods and services from the Montana correctional enterprises program.

(3) The Montana correctional enterprises program may:

(a) pay an inmate from receipts from the sale of products produced or manufactured or services rendered in a program in which the inmate is working;

(b) collect 15% of the gross wages paid to an inmate employed in a federally certified prison industries program to satisfy any unpaid court-ordered obligations, including restitution on previously discharged sentences for which restitution remains owing. If the inmate's court-ordered obligations have been fully paid or no restitution was ordered, the Montana correctional enterprises program shall collect 15% of the gross wages paid to an inmate for transfer quarterly to the crime victims compensation and assistance program in the department of justice for deposit in the state general fund as provided in Title 53, chapter 9, part 1.

(c) collect charges for room and board from an inmate employed in a federally certified prison industries program. The Montana correctional enterprises program shall deposit inmates' room and board charges into its enterprise fund to help defray the cost of prison industries training programs.

(4) While engaged in on-the-job training and production, inmates not employed working in a federally certified prison industries program may be paid a wage in accordance with subsection (5). Inmates employed in a federally certified prison industries program must be paid as provided in subsection (5)(b).

(5) (a) Except as provided in subsection (5)(b), the maximum rate of pay must be determined by the appropriation established for the program, and payment for the performance of work may be based on the following criteria:

(i) knowledge and skill;

(ii) attitude toward authority;

(iii) physical effort;

(iv) responsibility for equipment and materials; and

(v) regard for safety of others.

(b) Inmates employed in a federally certified prison industries program must be paid the federal minimum wage or be paid at a rate not less than the rate paid for similar work in the locality where the inmate performs the work as determined by the federal bureau of justice.

(6) Premiums for workers' compensation and occupational disease coverage for federally certified prison industries programs must be paid by the Montana correctional enterprises prison industries training program or by the department of corrections. If the department of corrections pays the premium, reimbursement for premium payments for workers' compensation and occupational disease coverage must be made to the department of corrections by the private company contracting with the federally certified prison industries program for services and products.

(7) Inmates not working in a federally certified prison industries program are not employees, either public or private, and employment rights accorded other classes of workers do not apply to the inmates. Inmates working in a federally certified prison industries program are entitled to coverage and benefits as provided in 39-71-744."

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 53, chapter 30, part 1, and the provisions of Title 53, chapter 30, part 1, apply to [section 1].

Section 5. Effective date. [This act] is effective on passage and approval.

Section 6. Termination. [Section 1] terminates December 30, 2026.

Approved May 5, 2025

CHAPTER NO. 462

[HB 573]

AN ACT REVISING LAWS RELATED TO TRANSFORMATIONAL LEARNING; MOVING THE TERMINATION OF THE EXISTING TRANSFORMATIONAL LEARNING GRANT PROGRAM UP BY 1 YEAR; ESTABLISHING A TRANSFORMATIONAL LEARNING PHASE II GRANT PROGRAM AND REQUIREMENTS FOR ADMINISTERING THE PROGRAM FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION AND THE BOARD OF PUBLIC EDUCATION; RELOCATING A DEFINITION; AMENDING SECTIONS 20-7-1601 AND 20-7-1602, MCA; AMENDING SECTION 7, CHAPTER 402, LAWS OF 2019; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-7-1601, MCA, is amended to read:

"20-7-1601. Forms of personalized learning – legislative intent.

(1) The legislature finds and declares pursuant to Article X, section 1, of the 1972 Montana constitution that forms of personalized learning authorized under Montana law, including but not limited to work-based learning pursuant to 20-7-1510, proficiency-based learning as defined in subsection (2) of this section, determinations of course equivalency by an elected board of trustees under 20-3-324(18), remote instruction under 20-7-118, and transformational learning, are appropriate means of fulfilling the people's goal of developing the full educational potential of each person. The provision of and participation in forms of personalized learning under this part and in compliance with accreditation standards of the board of public education are constitutionally

compliant and protected. The legislature declares that any public or private regulation that discriminates against a district or pupil participating in forms of personalized learning referenced in this section is inconsistent with constitutional goals and guarantees under Article X of the Montana constitution.

(2) As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(a) “Proficiency” means a measure of competence that is demonstrated through application in a performance assessment.

(b) “Proficiency-based learning” means an education system in which student progress is based on a student’s demonstration of competence rather than on the basis of seat time or the age or grade level of the student.

(c) *“Transformational learning” means a flexible system of pupil-centered and proficiency-based learning that is designed to develop the full educational potential of each pupil that:*

(i) is customized to address each pupil’s strengths, needs, and interests; and

(ii) actively engages each pupil in determining what, how, when, and where each pupil learns.”

Section 2. Section 20-7-1602, MCA, is amended to read:

“20-7-1602. (Temporary) Incentives for creation of transformational learning programs. (1) (a) A school district as defined in 20-6-101 that satisfies the conditions of subsection (2) and is qualified by the board of public education pursuant to subsection (4) is eligible for a 4-consecutive-year provision of the transitional funding and flexibilities in subsections (5) and (6).

(b) A school district may be qualified by the board of public education for no more than one 4-consecutive-year provision of transitional funding and flexibilities in any 8-year period.

(2) To qualify for the transitional funding and flexibilities in subsections (5) and (6), the board of trustees of a district shall submit an application that has been approved by motion of the board of trustees and signed by the presiding officer to the board of public education for approval of a transformational learning program on a form provided by the superintendent of public instruction. The school board’s application must:

(a) identify the number of full-time equivalent educators meeting the criteria of 20-9-327(3) who will participate in the district’s transformational learning program, with full-time equivalence calculated and reported by the district based on the planned portion of each qualifying educator’s full-time equivalent assignment that is dedicated to the district’s transformational learning program;

(b) include the district’s definition of proficiency within the meaning of the term as used in 20-9-311(4)(d). The definition must be incorporated in the district’s policies and must be used for purposes of determining content and course proficiency and other progress, promotion from grade to grade, grades, and graduation for pupils enrolled in the district’s transformational learning program. The district must also describe the district’s plans for the implementation of proficiency-based learning as defined in 20-7-1601; and

(c) include a strategic plan with appropriate planning horizons for implementation, measurable objectives to ensure accountability, and planned strategies to:

(i) develop a transformational learning plan for each participating pupil that honors individual interests, passions, strengths, needs, and culture and that is rooted in relationships with teachers, family, peers, and community members;

(ii) embed community-based, experiential, online, and work-based learning opportunities and foster a learning environment that incorporates both face-to-face and virtual connections;

(iii) provide effective professional development to assist employees in transitioning to a transformational learning model; and

(iv) ensure equality of educational opportunity to participate by all pupils of the district.

(3) The board of public education shall establish by rule the opening and closing dates for receipt of applications and annual reports.

(4) The board of public education shall:

(a) on an annual basis, qualify districts that submit an application meeting, in the determination of the board or the board's designee, the requirements of subsection (2) for the funding in subsection (5) and the flexibilities in subsection (6) until the annual appropriation is exhausted, after which further applications, including first-time applications and annual reports requesting an expansion of a previously approved plan, are to be deferred for consideration in a subsequent year, in the order of a lottery system draw, if and when additional funds become available for distribution. The lottery system shall assign every first-time application or request for expansion of a previously approved plan a number that will be placed into a lottery system draw that will be done by a third party. The applications will be assigned a position in the order in which the numbers are drawn. The drawing will continue until all districts are on the qualification list for the current year funding or deferred for consideration in a subsequent year.

(b) require each participating school district to submit an annual report demonstrating, in the determination of the board or the board's designee, continued qualification for funding under this section and including a report of progress toward measurable objectives under the school district's transformational learning plan. The school district shall include any decrease or requested increase in the number of participating full-time equivalent educators under subsection (2)(a) for adjustments to its funding. Any increase in funding based on requested increased levels of participation under subsection (2)(a) must be determined in the year in which the request for a funding increase is received and augmented with a lottery system among all first-time applications and annual reports requesting an expansion of a previously approved plan and must be contingent on the availability of funds within any appropriation of the legislature. An application deferred for consideration in a subsequent year due to lack of funding must be annually updated each year after more than 1 full fiscal year has passed from the date of original submission of the application in order for the application to retain its priority by original date received.

(c) report in accordance with 5-11-210 to the education interim committee on the progress made by districts as submitted in the annual report and strategic plan operating under approved and funded transformational learning plans.

(5) (a) For a period of 4 consecutive fiscal years following the fiscal year in which a district is qualified by the board of public education and contingent on satisfying the annual reporting requirements under subsection (4), the superintendent of public instruction shall provide a transformational learning aid payment to the district equivalent to 50% of the quality educator payment defined in 20-9-306 from the immediate prior fiscal year multiplied by the number of the district's full-time equivalent educators reported under subsection (2)(a) of this section.

(b) The payment under this subsection (5) must be distributed directly to the school district's flexibility fund established under 20-9-543 by October 1 of

each year of funding by the superintendent of public instruction. The money must be expended by the district only for the purposes set forth in the district's approved transformational learning program and within ~~2 years of the date of distribution~~ *6 years of the first year of funding*.

(c) A school district may not receive more than 25% of the total amount of payments made under this subsection (5).

(6) During each year that a school district remains qualified for funding under subsection (5), the district's trustees may:

(a) if the obligations of transparency set forth in 20-9-116 are met, levy an annual permissive property tax not to exceed 100% of any funds distributed to the district under subsection (5). Proceeds of the levy must be deposited in the district's flexibility fund established under 20-9-543 and must be expended by the district only for the purposes of the district's approved transformational learning plan.

(b) transfer state or local revenue from any budgeted or nonbudgeted fund, other than the debt service fund or retirement fund, to the district's flexibility fund.

(7) (a) Any funds transferred pursuant to subsection (6)(b) may be expended by the district solely for the purposes of implementing the district's approved transformational learning plan. Any transfers of funds are not considered expenditures to be applied against budget authority.

(b) Any transfers that are not expended for the purposes of implementing the district's approved transformational learning plan within 2 full school fiscal years after the funds are transferred must be transferred back to the originating fund from which the revenue was transferred.

(c) The intent of subsection (6)(b) and this subsection (7) is to increase the flexibility and efficiency of school districts without an increase in local taxes. In furtherance of this intent, if transfers of funds are made from any school district fund supported by a nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the amount of funds transferred.

(8) The present law base calculated for K-12 local assistance under Title 17, chapter 7, part 1, must include transformational learning aid as defined in subsection (9).

(9) For the purposes of this title, the following definitions apply:

(a) "Transformational learning" means a flexible system of pupil-centered and proficiency-based learning that is designed to develop the full educational potential of each pupil that:

(i) is customized to address each pupil's strengths, needs, and interests; and

(ii) actively engages each pupil in determining what, how, when, and where each pupil learns.

(b) "Transformational learning aid" means 50% of the quality educator payment defined in 20-9-306 multiplied by 10% of the statewide number of full-time equivalent educators from the fiscal year immediately preceding the year to which distribution of transformational aid applies calculated as provided in 20-9-327. (Terminates June 30, ~~2027~~ 2026--sec. 7, Ch. 402, L. 2019.)"

Section 3. Transformational learning – phase II grant program.

(1) There is a transformational learning phase II grant program administered by the superintendent of public instruction. The purposes of the grant program are to:

(a) further develop the efforts of the most innovative transformational learning grantees toward district-wide implementation of transformational and proficiency-based learning; and

(b) use the knowledge gained by phase II grantees to develop recommendations and guidance for other districts interested in innovating in a similar manner.

(2) The superintendent of public instruction shall:

(a) invite those school districts that are awarded transformational learning grants to submit an application for a transformational learning phase II grant. The application must include at a minimum:

(i) evidence of the progress made by the district in implementing transformational and proficiency-based learning as the terms are defined in 20-7-1601; and

(ii) a detailed description of how the district plans to continue its progress toward district-wide transformational and proficiency-based learning, including cost estimates;

(b) no later than February 1, 2026, determine a list of no more than five districts to recommend for a phase II grant to the board of public education for the board's approval; and

(c) no later than July 15, 2026, and contingent on appropriation from the legislature, distribute to no more than five districts a transformational learning phase II grant. The superintendent shall base the award amounts on the district's size and the costs outlined in its application and utilize 90% of the amount appropriated by the legislature for the grants.

(3) A district receiving a transformational learning phase II grant shall:

(a) deposit the money in the district's flexibility fund and use the money prior to June 30, 2028, for the purposes described in the district's grant application; and

(b) participate in collaborative activities organized by the superintendent of public instruction for grantees as described in subsection (4).

(4) (a) With the remaining 10% of the amount appropriated by the legislature, the superintendent shall provide technical assistance and collaborative opportunities for the grantees. In supporting grantees, the superintendent may:

(i) host convenings of the grantees;

(ii) provide professional development for grantees;

(iii) enlist the assistance of organizations with expertise in supporting school districts in implementing transformational and proficiency-based learning; and

(iv) provide other types of support requested by grantees or determined to be beneficial by the superintendent.

(b) No later than September 1, 2028, the office of public instruction and the phase II grantees shall provide a joint report to the education interim committee and the education interim budget committee on the progress made by the grantees. The report must include:

(i) a detailed description of how the grantees furthered their progress toward district-wide transformational and proficiency-based learning as a result of the grant;

(ii) a guidance document for other school districts in implementing transformational and proficiency-based learning; and

(iii) recommendations for legislative action to support districts in implementing transformational and proficiency-based learning.

Section 4. Section 7, Chapter 402, Laws of 2019, is amended to read:

"Section 7. Termination. [This act] terminates June 30, ~~2027~~ 2026."

Section 5. Codification instruction. [Section 3] is intended to be codified as an integral part of Title 20, chapter 7, part 16, and the provisions of Title 20, chapter 7, part 16, apply to [section 3].

Section 6. Coordination instruction. If both House Bill No. 2 and [this act] are passed and approved, then the appropriation in House Bill No. 2 for transformational learning must be used for the transformational learning phase II grant program as described in [section 3].

Section 7. Effective date. [This act] is effective July 1, 2025.

Section 8. Termination. [Section 3] terminates December 31, 2028.

Approved May 5, 2025

CHAPTER NO. 463

[HB 578]

AN ACT GENERALLY REVISING LAWS RELATED TO RESTITUTION; REMOVING FROM CONSIDERATION AN OFFENDER'S FINANCIAL RESOURCES WHEN SENTENCING RESTITUTION; ALLOWING INFORMATION OF PECUNIARY LOSS OR LOSS OF PROPERTY TO BE PROVIDED TO A PROBATION OFFICER OUTSIDE THE ORDER OF THE COURT; MODIFYING WHEN A COURT MAY GRANT A PETITION TO REVISE RESTITUTION; AND AMENDING SECTIONS 45-5-206, 45-5-503, 45-5-507, 45-5-627, 45-6-101, 46-18-101, 46-18-242, AND 46-18-246, MCA.

WHEREAS, the majority opinion in *State v. Lodahl*, 2021 MT 156, deviated from the plain language of House Bill 220, Chapter 272, from the 2003 legislative session. Section 4 of House Bill 220 amended section 46-18-242, MCA, by removing from consideration an offender's "financial resources and future ability to pay restitution" from consideration in an investigation and proof of victim's loss; and

WHEREAS, if a victim loses property or incurs a pecuniary loss, Montana law requires courts to order restitution in sections 46-18-101, 46-18-201, and 46-18-251, MCA; and

WHEREAS, the intent of the Legislature in the 2003 revisions to section 46-18-242, MCA, was to ensure that the restitution amount be determined during the sentencing process without consideration of the offender's ability to pay restitution; and

WHEREAS, in keeping with the 2003 revisions to section 46-18-242, MCA, the waiver and modification of the restitution process found in section 46-18-246, MCA, was intended to be a postjudgment inquiry requiring the offender to file a subsequent petition to the sentencing court; and

WHEREAS, the amendments to section 46-18-246, MCA, in this bill are intended to further provide evidence of legislative intent.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 45-5-206, MCA, is amended to read:

"45-5-206. Partner or family member assault – penalty. (1) A person commits the offense of partner or family member assault if the person:

(a) purposely or knowingly causes bodily injury to a partner or family member;

(b) negligently causes bodily injury to a partner or family member with a weapon; or

(c) purposely or knowingly causes reasonable apprehension of bodily injury in a partner or family member.

(2) For the purposes of Title 40, chapter 15, 45-5-231 through 45-5-234, 46-6-311, and this section, the following definitions apply:

(a) "Family member" means mothers, fathers, children, brothers, sisters, and other past or present family members of a household. These relationships

include relationships created by adoption and remarriage, including stepchildren, stepparents, in-laws, and adoptive children and parents. These relationships continue regardless of the ages of the parties and whether the parties reside in the same household.

(b) "Partners" means spouses, former spouses, persons who have a child in common, and persons who have been or are currently in a dating or ongoing intimate relationship.

(3) (a) (i) An offender convicted of partner or family member assault shall be fined an amount not less than \$100 or more than \$1,000 and be imprisoned in the county jail for a term not to exceed 1 year or not less than 24 hours for a first offense.

(ii) An offender convicted of a second offense under this section shall be fined not less than \$300 or more than \$1,000 and be imprisoned in the county jail not less than 72 hours or more than 1 year.

(iii) Upon a first or second conviction, the offender may be ordered into misdemeanor probation as provided in 46-23-1005.

(iv) On a third or subsequent conviction for partner or family member assault, the offender shall be fined not less than \$500 and not more than \$50,000 and be imprisoned for a term not less than 30 days and not more than 5 years. If the term of imprisonment does not exceed 1 year, the person shall be imprisoned in the county jail. If the term of imprisonment exceeds 1 year, the person shall be imprisoned in the state prison.

(v) If the offense was committed within the vision or hearing of a minor, the judge shall consider the minor's presence as a factor at the time of sentencing.

(b) For the purpose of determining the number of convictions under this section, a conviction means:

(i) a conviction, as defined in 45-2-101, under this section;

(ii) a conviction for domestic abuse under this section;

(iii) a conviction for a violation of a statute similar to this section in another state;

(iv) if the offender was a partner or family member of the victim, a conviction for aggravated assault under 45-5-202 or assault with a weapon under 45-5-213;

(v) a conviction for strangulation of a partner or family member under 45-5-215;

(vi) a conviction in another state for an offense related to domestic violence between partners or family members, as those terms are defined in this section, regardless of what the offense is named or whether it is misdemeanor or felony, if the offense involves conduct similar to conduct that is prohibited under 45-5-202, 45-5-213, or this section; or

(vii) a forfeiture of bail or collateral deposited to secure the defendant's appearance in court in this state or in another state for a violation of a statute similar to this section, which forfeiture has not been vacated.

(4) (a) An offender convicted of partner or family member assault is required to pay for and complete a counseling assessment with a focus on violence, controlling behavior, dangerousness, and chemical dependency. An investigative criminal justice report, as defined in 45-5-231, must be copied and sent to the offender intervention program, as defined in 45-5-231, to assist the counseling provider in properly assessing the offender's need for counseling and treatment. Counseling providers shall take all required precautions to ensure the confidentiality of the report. If the report contains confidential information relating to the victim's location or not related to the charged offense, that information must be deleted from the report prior to being sent to the offender intervention program.

(b) The offender shall complete all recommendations for counseling, referrals, attendance at psychoeducational groups, or treatment, including any indicated chemical dependency treatment, made by the counseling provider. The counseling provider must be approved by the court. The counseling must include a preliminary assessment for counseling, as defined in 45-5-231. The offender shall complete a minimum of 40 hours of counseling. The counseling may include attendance at psychoeducational groups, as defined in 45-5-231, in addition to the assessment. The preliminary assessment and counseling that holds the offender accountable for the offender's violent or controlling behavior must meet the standards established pursuant to 44-7-210 and be:

- (i) with a person licensed under Title 37, chapter 17, 22, or 23;
- (ii) with a professional person as defined in 53-21-102; or
- (iii) in a specialized domestic violence intervention program.

(c) The minimum counseling and attendance at psychoeducational groups provided in subsection (4)(b) must be directed to the violent or controlling conduct of the offender. Other issues indicated by the assessment may be addressed in additional counseling beyond the minimum 40 hours. Subsection (4)(b) does not prohibit the placement of the offender in other appropriate treatment if the court determines that there is no available treatment program directed to the violent or controlling conduct of the offender.

(5) In addition to any sentence imposed under subsections (3) and (4), ~~after determining the financial resources and future ability of the offender to pay restitution as provided for in 46-18-242, the court shall require the offender, if able, to pay the victim's reasonable actual medical, housing, wage loss, and counseling costs. The amount, method, and time of payment must be determined in the same manner as provided in 46-18-244.~~

(6) In addition to the requirements of subsection (5), if financially able, the offender must be ordered to pay for the costs of the offender's probation, if probation is ordered by the court.

(7) The court may prohibit an offender convicted under this section from possession or use of the firearm used in the assault. The court may enforce 45-8-323 if a firearm was used in the assault.

(8) The court shall provide an offender with a written copy of the offender's sentence at the time of sentencing or within 2 weeks of sentencing if the copy is sent electronically or by mail."

Section 2. Section 45-5-503, MCA, is amended to read:

"45-5-503. Sexual intercourse without consent. (1) A person who knowingly has sexual intercourse with another person without consent or with another person who is incapable of consent commits the offense of sexual intercourse without consent. A person may not be convicted under this section based on the age of the person's spouse, as provided in 45-5-501(1)(b)(iv).

(2) A person convicted of sexual intercourse without consent shall be punished by life imprisonment or by imprisonment in the state prison for a term of not more than 20 years and may be fined not more than \$50,000, except as provided in 46-18-219, 46-18-222, and subsections (3), (4), and (5) of this section.

(3) (a) If the victim is less than 16 years old and the offender is 4 or more years older than the victim or if the offender inflicts bodily injury on anyone in the course of committing sexual intercourse without consent, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100 years and may be fined not more than \$50,000, except as provided in 46-18-219 and 46-18-222.

(b) If two or more persons are convicted of sexual intercourse without consent with the same victim in an incident in which each offender was present

at the location where another offender's offense occurred during a time period in which each offender could have reasonably known of the other's offense, each offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 5 years or more than 100 years and may be fined not more than \$50,000, except as provided in 46-18-219 and 46-18-222.

(c) If the offender was previously convicted of an offense under this section or of an offense under the laws of another state or of the United States that if committed in this state would be an offense under this section and if the offender inflicted serious bodily injury on a person in the course of committing each offense, the offender shall be:

(i) punished by death as provided in 46-18-301 through 46-18-310, unless the offender is less than 18 years of age at the time of the commission of the offense; or

(ii) punished as provided in 46-18-219.

(4) (a) If the victim was 12 years of age or younger and the offender in the course of committing a violation of this section was 18 years of age or older at the time of the offense, the offender:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (4)(a)(i) except as provided in 46-18-222(1) through (5), and during the first 25 years of imprisonment, the offender is not eligible for parole. The exception provided in 46-18-222(6) does not apply.

(ii) may be fined an amount not to exceed \$50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

(5) If the victim is at least 14 years of age and the offender is 18 years of age or younger, the offender may be punished by imprisonment in the state prison for a term of not more than 5 years and may be fined not more than \$10,000 if:

(a) the offender has not previously been found to have committed or been adjudicated for a sexual offense as defined in 46-23-502;

(b) a psychosexual evaluation of the offender has been prepared and the court finds that registration is not necessary for protection of the public and that relief from registration is in the public's best interest; and

(c) the court finds that the alleged conduct was consensual as indicated by words or overt actions indicating a freely given agreement to have sexual intercourse or sexual contact.

(6) In addition to any sentence imposed under subsection (2) or (3), ~~after determining the financial resources and future ability of the offender to pay restitution as required by 46-18-242,~~ the court shall require the offender, if able, to pay the victim's reasonable medical and counseling costs that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in 46-18-244.

(7) As used in subsections (3) and (4), an act "in the course of committing sexual intercourse without consent" includes an attempt to commit the offense or the act of flight after the attempt or commission.

(8) If as a result of sexual intercourse without consent a child is born, the offender who has been convicted of an offense under this section and who is

the biological parent of the child resulting from the sexual intercourse without consent forfeits all parental and custodial rights to the child if the provisions of 46-1-401 have been followed.”

Section 3. Section 45-5-507, MCA, is amended to read:

“45-5-507. Incest. (1) A person commits the offense of incest if the person knowingly marries, cohabits with, has sexual intercourse with, or has sexual contact, as defined in 45-2-101, with an ancestor, a descendant, a brother or sister of the whole or half blood, a nephew or niece, or any stepson or stepdaughter. The relationships referred to in this subsection include blood relationships without regard to legitimacy, relationships of parent and child by adoption, and relationships involving a stepson or stepdaughter.

(2) (a) Consent is a defense to incest with or upon a stepson or stepdaughter, but consent is ineffective if the stepson or stepdaughter is less than 18 years of age and the stepparent is 4 or more years older than the stepson or stepdaughter.

(b) A person who is less than 18 years of age is not legally responsible or legally accountable for the offense of incest and is considered a victim of the offense of incest if the other person in the incestuous relationship is 4 or more years older than the victim.

(3) Except as provided in subsections (4) and (5), a person convicted of incest shall be punished by life imprisonment or by imprisonment in the state prison for a term not to exceed 100 years or be fined an amount not to exceed \$50,000.

(4) If the victim is under 16 years of age and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing incest, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100 years and may be fined not more than \$50,000.

(5) (a) If the victim was 12 years of age or younger, the offender was 18 years of age or older at the time of the offense, the offender:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (5)(a)(i) except as provided in 46-18-222(1) through (5), and during the first 25 years of imprisonment, the offender is not eligible for parole. The exception provided in 46-18-222(6) does not apply.

(ii) may be fined an amount not to exceed \$50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender’s life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

(6) In addition to any sentence imposed under subsection (3), (4), or (5), ~~after determining the financial resources and future ability of the offender to pay restitution as required by 46-18-242,~~ the court shall require the offender; ~~if able,~~ to pay the victim’s reasonable costs of counseling that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in 46-18-244.”

Section 4. Section 45-5-627, MCA, is amended to read:

“45-5-627. Ritual abuse of minor – exceptions – penalty. (1) A person commits the offense of ritual abuse of a minor if the person purposely or knowingly and as part of any ceremony, rite, or ritual or of any training or practice for any ceremony, rite, or ritual:

(a) has sexual intercourse without consent with a person less than 16 years of age; commits assault, aggravated assault, assault on a minor, or assault with a weapon against a victim less than 16 years of age; or kills a person less than 16 years of age;

(b) actually or by simulation tortures, mutilates, or sacrifices an animal or person in the presence of the minor;

(c) dissects, mutilates, or incinerates a human corpse or remains in the presence of the minor;

(d) forces upon the minor or upon another person in the presence of a minor the ingestion or the external bodily application of human or animal urine, feces, flesh, blood, bone, or bodily secretions or drugs or chemical compounds;

(e) places a living minor or another living person in the presence of a minor in a coffin or open grave that is empty or that contains a human corpse or remains; or

(f) threatens the minor or, in the presence of the minor, threatens any person or animal with death or serious bodily harm and the minor reasonably believes that the threat will or may be carried out.

(2) This section does not apply to activities, practices, and procedures otherwise allowed by law.

(3) Except as provided in 46-18-219, a person convicted of ritual abuse of a minor shall:

(a) for the first offense, be imprisoned in the state prison for a term of not less than 2 years or more than 20 years and may be fined not more than \$50,000, or both; and

(b) for a second or subsequent offense, be imprisoned in the state prison for any term of not less than 2 years or more than 40 years and may be fined not more than \$50,000, or both.

(4) In addition to any sentence imposed under subsection (3), ~~after determining pursuant to 46-18-242 the financial resources and future ability of the offender to pay restitution, the court shall require the offender, if able, to pay the victim's reasonable costs of counseling that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in 46-18-244."~~

Section 5. Section 45-6-101, MCA, is amended to read:

"45-6-101. Criminal mischief. (1) A person commits the offense of criminal mischief if the person knowingly or purposely:

(a) injures, damages, or destroys any property of another or public property without consent;

(b) without consent tampers with property of another or public property so as to endanger or interfere with persons or property or its use;

(c) damages or destroys property with the purpose to defraud an insurer; or

(d) fails to close a gate previously unopened that the person has opened, leading in or out of any enclosed premises. This does not apply to gates located in cities or towns.

(2) A person convicted of criminal mischief must be ordered to make restitution in an amount and manner to be set by the court. ~~The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the restitution. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of restitution ordered must be made prior to the release of state jurisdiction over the person convicted.~~

(3) A person convicted of the offense of criminal mischief shall be fined not to exceed \$1,500 or be imprisoned in the county jail for any term not to

exceed 6 months, or both. If the offender commits the offense of criminal mischief and causes pecuniary loss in excess of \$1,500, injures or kills a commonly domesticated hoofed animal, or causes a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public services, the offender shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(4) Amounts involved in criminal mischiefs committed pursuant to a common scheme or the same transaction, whether against the public or the same person or several persons, may be aggregated in determining pecuniary loss.

(5) A person convicted of or who forfeits bond or bail for committing an act of criminal mischief involving property owned or administered by the department of fish, wildlife, and parks shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for at least 24 months from the date of conviction or forfeiture.”

Section 6. Section 46-18-101, MCA, is amended to read:

“46-18-101. Correctional and sentencing policy. (1) It is the purpose of this section to establish the correctional and sentencing policy of the state of Montana. Laws for the punishment of crime are drawn to implement the policy established by this section.

(2) The correctional and sentencing policy of the state of Montana is to:

(a) punish each offender commensurate with the nature and degree of harm caused by the offense and to hold an offender accountable;

(b) protect the public, reduce crime, and increase the public sense of safety by incarcerating violent offenders and serious repeat offenders;

(c) provide restitution, reparation, and restoration to the victim of the offense; and

(d) encourage and provide opportunities for the offender’s self-improvement to provide rehabilitation and reintegration of offenders back into the community.

(3) To achieve the policy outlined in subsection (2), the state of Montana adopts the following principles:

(a) Sentencing and punishment must be certain, timely, consistent, and understandable.

(b) Sentences should be commensurate with the punishment imposed on other persons committing the same offenses.

(c) Sentencing practices must be neutral with respect to the offender’s race, gender, religion, national origin, or social or economic status.

(d) Sentencing practices must permit judicial discretion to consider aggravating and mitigating circumstances.

(e) Sentencing practices must include punishing violent and serious repeat felony offenders with incarceration.

(f) Sentencing practices must provide alternatives to imprisonment for the punishment of those nonviolent felony offenders who do not have serious criminal records.

(g) Sentencing and correctional practices must emphasize that the offender is responsible for obeying the law and must hold the offender accountable for the offender’s actions.

(h) Sentencing practices must emphasize restitution to the victim by the offender. A sentence must require an offender ~~who is financially able to do so~~ to pay restitution, costs as provided in 46-18-232, costs of assigned counsel, as provided in 46-8-113, and, if the offender is a sex offender, costs of any chemical treatment.

(i) Sentencing practices should promote and support practices, policies, and programs that focus on restorative justice principles.”

Section 7. Section 46-18-242, MCA, is amended to read:

“46-18-242. Investigation and report of victim’s loss. (1) (a) Whenever the court believes that a victim may have sustained a pecuniary loss or whenever the prosecuting attorney requests, the court shall order the probation officer, restitution officer, or other designated person to include in the presentence investigation and report if requested pursuant to 46-18-111:

(a)(i) a list of the offender’s assets; and

(b)(ii) an affidavit that specifically describes the victim’s pecuniary loss and the replacement value in dollars of the loss, submitted by the victim.

(b) *If the court does not order the probation officer, restitution officer, or other designated person to include information about a victim’s pecuniary loss or loss of property in a presentence investigation, nothing precludes the victim from providing that information to the probation officer, restitution officer, or other designated person making the presentence investigation and report.*

(2) When a presentence report is not requested, the court shall accept evidence of the victim’s loss at the time of sentencing.”

Section 8. Section 46-18-246, MCA, is amended to read:

“46-18-246. Waiver or modification of payment. (1) *Except as limited by subsection (2), An* an offender may at any time petition the sentencing court to adjust or otherwise waive payment of any part of any ordered restitution or amount to be paid pursuant to 46-18-241(2)(a).

(2) *A court may not waive or adjust a restitution order within 1 year of imposition of the order or during any period while an offender is in the custody of the department of corrections.*

(3) The court shall schedule a hearing and give a victim to whom restitution was ordered notice of the hearing date, place, and time and inform the victim that the victim will have an opportunity to be heard.

(4) If the court finds that the circumstances ~~upon~~ on which it based the imposition of restitution, amount of the victim’s pecuniary loss, or method or time of payment no longer exist or that it otherwise would be unjust to require payment as imposed, the court may adjust or waive unpaid restitution or the amount to be paid pursuant to 46-18-241(2)(a) or modify the time or method of making restitution.

(5) The court may extend the restitution schedule.”

Approved May 5, 2025

CHAPTER NO. 464

[HB 587]

AN ACT REVISING MINE RECLAMATION LAWS; REVISING THE DEFINITION OF MATERIAL DAMAGE; CLARIFYING HYDROLOGIC AND GEOLOGIC INFORMATION FOR A PERMIT; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 82-4-203 AND 82-4-222, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 82-4-203, MCA, is amended to read:

“82-4-203. Definitions. Unless the context requires otherwise, in this part the following definitions apply:

(1) “Abandoned” means an operation in which a mineral is not being produced and that the department determines will not continue or resume operation.

(2) “Adjacent area” means the area outside the permit area where a resource or resources, determined in the context in which the term is used, are or could reasonably be expected to be adversely affected by proposed mining operations, including probable impacts from underground workings.

(3) “Affected drainage basin” means an area of land where surface water and ground water quality and quantity are affected by mining activities and where they drain to a common point.

(4) (a) “Alluvial valley floor” means the unconsolidated stream-laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities.

(b) The term does not include upland areas that are generally overlain by a thin veneer of colluvial deposits composed chiefly of debris from sheet erosion and deposits by unconcentrated runoff or slope wash, together with talus, other mass movement accumulation, and windblown deposits.

(5) “Amendment” means a change in the mine or reclamation plan that increases the operation’s permitted boundaries. The term includes major revisions but does not include incidental boundary revisions or minor revisions.

(6) “Approximate original contour” means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls, spoil piles, and coal refuse piles eliminated, so that:

(a) the reclaimed terrain closely resembles the general surface configuration if it is comparable to the premine terrain. For example, if the area was basically level or gently rolling before mining, it should retain these features after mining, recognizing that rolls and dips need not be restored to their original locations and that level areas may be increased.

(b) the reclaimed area blends with and complements the drainage pattern of the surrounding area so that water intercepted within or from the surrounding terrain flows through and from the reclaimed area in an unobstructed and controlled manner;

(c) postmining drainage basins may differ in size, location, configuration, orientation, and density of ephemeral drainageways compared to the premining topography if they are hydrologically stable, soil erosion is controlled to the extent appropriate for the postmining land use, and the hydrologic balance is protected; and

(d) the reclaimed surface configuration is appropriate for the postmining land use.

(7) “Aquifer” means any geologic formation or natural zone beneath the earth’s surface that contains or stores water and transmits it from one point to another in quantities that permit or have the potential to permit economic development as a water source.

(8) (a) “Area of land affected” means the area of land from which overburden is to be or has been removed and upon which the overburden is to be or has been deposited.

(b) The term includes:

(i) all land overlying any tunnels, shafts, or other excavations used to extract the mineral;

(ii) lands affected by the construction of new railroad loops and roads or the improvement or use of existing railroad loops and roads to gain access and to haul the mineral;

(iii) processing facilities at or near the mine site or other mine-associated facilities, waste deposition areas, treatment ponds, and any other surface or subsurface disturbance associated with strip mining or underground mining; and

(iv) all activities necessary and incident to the reclamation of the mining operations.

(9) "Bench" means the ledge, shelf, table, or terrace formed in the contour method of strip mining.

(10) "Board" means the board of environmental review provided for in 2-15-3502.

(11) "Coal conservation plan" means the planned course of conduct of a strip- or underground-mining operation and includes plans for the removal and use of minable and marketable coal located within the area planned to be mined.

(12) (a) "Coal preparation" means the chemical or physical processing of coal and its cleaning, concentrating, or other processing or preparation.

(b) The term does not mean the conversion of coal to another energy form or to a gaseous or liquid hydrocarbon, except for incidental amounts that do not leave the plant, nor does the term mean processing for other than commercial purposes.

(13) "Coal preparation plant" means a commercial facility where coal is subject to coal preparation. The term includes commercial facilities associated with coal preparation activities but is not limited to loading buildings, water treatment facilities, water storage facilities, settling basins and impoundments, and coal processing and other waste disposal areas.

(14) "Contour strip mining" means that strip-mining method commonly carried out in areas of rough and hilly topography in which the coal or mineral seam outcrops along the side of the slope and entrance are made to the seam by excavating a bench or table cut at and along the site of the seam outcropping, with the excavated overburden commonly being cast down the slope below the mineral seam and the operating bench.

(15) "Cropland" means land used for the production of adapted crops for harvest, alone or in rotation with grasses and legumes, that include row crops, small grain crops, hay crops, nursery crops, orchard crops, and other similar crops.

(16) "Degree" means a measurement from the horizontal. In each case, the measurement is subject to a tolerance of 5% error.

(17) "Department" means the department of environmental quality provided for in 2-15-3501.

(18) "Developed water resources" means land used for storing water for beneficial uses, such as stockponds, irrigation, fire protection, flood control, and water supply.

(19) "Ephemeral drainageway" means a drainageway that flows only in response to precipitation in the immediate watershed or in response to the melting of snow or ice and is always above the local water table.

(20) "Failure to conserve coal" means the nonremoval or nonuse of minable and marketable coal by an operation. However, the nonremoval or nonuse of minable and marketable coal that occurs because of compliance with reclamation standards established by the department is not considered failure to conserve coal.

(21) "Fill bench" means that portion of a bench or table that is formed by depositing overburden beyond or downslope from the cut section as formed in the contour method of strip mining.

(22) "Fish and wildlife habitat" means land dedicated wholly or partially to the production, protection, or management of species of fish or wildlife.

(23) "Forestry" means land used or managed for the long-term production of wood, wood fiber, or wood-derived products.

(24) "Grazing land" means land used for grasslands and forest lands where the indigenous vegetation is actively managed for livestock grazing or browsing or occasional hay production.

(25) "Higher or better uses" means postmining land uses that have a higher economic value or noneconomic benefit to the landowner or the community than the premining land uses.

(26) "Hydrologic balance" means the relationship between the quality and quantity of water inflow to, water outflow from, and water storage in a hydrologic unit, such as a drainage basin, aquifer, soil zone, lake, or reservoir, and encompasses the dynamic relationships among precipitation, runoff, evaporation, and changes in ground water and surface water storage.

(27) "Imminent danger to the health and safety of the public" means the existence of any condition or practice or any violation of a permit or other requirement of this part in a strip- or underground-coal-mining and reclamation operation that could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not willingly be exposed to the danger during the time necessary for abatement.

(28) "Incidental boundary revision" means a change in the permit boundary necessary for reasons unforeseen in the original permit application that is small in relation to the original or amended permit area with insignificant impacts relative to the entire operation.

(29) "Industrial or commercial" means land used for:

(a) extraction or transformation of materials for fabrication of products, wholesaling of products, or long-term storage of products. This includes all heavy and light manufacturing facilities.

(b) retail or trade of goods or services, including hotels, motels, stores, restaurants, and other commercial establishments.

(30) (a) "In situ coal gasification" means a method of in-place coal mining where limited quantities of overburden are disturbed to install a conduit or well and coal is mined by injecting or recovering a liquid, solid, sludge, or gas that causes the leaching, dissolution, gasification, liquefaction, or extraction of the coal.

(b) In situ coal gasification does not include the storage of carbon dioxide in a geologic storage reservoir, the primary or enhanced recovery of naturally occurring oil and gas, or any related process regulated by the board of oil and gas conservation pursuant to Title 82, chapter 11.

(31) "Intermittent stream" means a stream or reach of a stream that is below the water table for at least some part of the year and that obtains its flow from both ground water discharge and surface runoff.

(32) "Land use" means specific uses or management-related activities, rather than the vegetative cover of the land. Land uses may be identified in combination when joint or seasonal uses occur and may include land used for support facilities that are an integral part of the land use. Land use categories

include cropland, developed water resources, fish and wildlife habitat, forestry, grazing land, industrial or commercial, pastureland, land occasionally cut for hay, recreation, or residential.

(33) "Major revision" means a change in the mining or reclamation plan that:

(a) significantly changes the postmining drainage plan, the overall postmining land use, or the bonding level of the permitted area; or

(b) adversely affects the reclaimability of the area or the hydrologic balance on or off the permitted area.

(34) "Marketable coal" means a minable coal that is economically feasible to mine and is fit for sale in the usual course of trade.

(35) "Material damage" means:

(a) with respect to ~~protection of the hydrologic balance, degradation or reduction by coal mining and reclamation operations of the quality or quantity of water outside of the permit area in a manner or to an extent that land uses or beneficial uses of water are adversely affected, water quality standards are violated, or water rights are impacted. Violation of a water quality standard, whether or not an existing water use is affected, is material damage~~ *the hydrologic balance outside the permit area, a quantifiable adverse impact from surface coal mining and reclamation operations on the quality or quantity of surface water or ground water that precludes an existing or reasonably foreseeable use of surface water or ground water outside the permit area. A quantifiable adverse impact is an effect that can be quantified and measured to a significant degree of confidence. Existing or reasonably foreseeable uses of surface water or ground water are those beneficial uses recognized in the classification of state waters pursuant to Title 75, chapter 5, part 3.*

(b) *with respect to an alluvial valley floor, degradation or reduction by coal mining and reclamation operations of the water quality or quantity supplied to the alluvial valley floor that significantly decreases the capability of the alluvial valley floor to support agricultural activities; and*

(c) *with respect to subsidence caused by underground coal mining:*

(i) *a functional impairment of surface lands, features, structures, or facilities;*

(ii) *a physical change that has a significant adverse impact on the affected land's capability to support any current or reasonably foreseeable uses or causes significant loss in production or income; or*

(iii) *a significant change in the condition, appearance, or utility of a structure or facility from its presubsidence condition.*

(36) "Method of operation" means the method or manner by which the cut, open pit, shaft, or excavation is made, the overburden is placed or handled, water is controlled, and other acts are performed by the operator in the process of uncovering and removing the minerals that affect the reclamation of the area of land affected.

(37) "Minaable coal" means that coal that can be removed through strip- or underground-mining methods adaptable to the location that coal is being mined or is planned to be mined.

(38) "Mineral" means coal and uranium.

(39) "Minor revision" means a change to the mining or reclamation plan that increases the area of land affected by mining activities within a permitted area by a total of less than 320 acres from the amount initially approved and does not significantly increase the impact of the permitted disturbance. The term includes expansion into an adjacent permitted area provided the expansion does not significantly increase the impact from either permitted area.

(40) "Operation" means:

(a) all of the premises, facilities, railroad loops, roads, and equipment used in the process of producing and removing mineral from and reclaiming a designated strip-mine or underground-mine area, including coal preparation plants; and

(b) all activities, including excavation incident to operations, or prospecting for the purpose of determining the location, quality, or quantity of a natural mineral deposit.

(41) "Operator" means a person engaged in:

(a) strip mining or underground mining who removes or intends to remove more than 10,000 cubic yards of mineral or overburden;

(b) coal mining who removes or intends to remove more than 250 tons of coal from the earth by mining within 12 consecutive calendar months in any one location;

(c) operating a coal preparation plant; or

(d) uranium mining using in situ methods.

(42) "Overburden" means:

(a) all of the earth and other materials that lie above a natural mineral deposit; and

(b) the earth and other material after removal from their natural state in the process of mining.

(43) "Pastureland" means land used primarily for the long-term production of adapted, domesticated forage plants to be grazed by livestock or occasionally cut and cured for livestock feed.

(44) "Perennial stream" means a stream or part of a stream that flows continuously during all of the calendar year as a result of ground water discharge or surface runoff.

(45) "Person" means a person, partnership, corporation, association, or other legal entity or any political subdivision or agency of the state or federal government.

(46) "Prime farmland" means land that:

(a) meets the criteria for prime farmland prescribed by the United States secretary of agriculture in the Federal Register; and

(b) historically has been used for intensive agricultural purposes.

(47) "Prospecting" means:

(a) the gathering of surface or subsurface geologic, physical, or chemical data by mapping, trenching, or geophysical or other techniques necessary to determine:

(i) the quality and quantity of overburden in an area; or

(ii) the location, quantity, or quality of a mineral deposit; or

(b) the gathering of environmental data to establish the conditions of an area before beginning strip- or underground-coal-mining and reclamation operations under this part.

(48) "Reclamation" means backfilling, subsidence stabilization, water control, grading, highwall reduction, topsoiling, planting, revegetation, and other work conducted on lands affected by strip mining or underground mining under a plan approved by the department to make those lands capable of supporting the uses that those lands were capable of supporting prior to any mining or to higher or better uses.

(49) "Recovery fluid" means any material that flows or moves, whether in semisolid, liquid, sludge, gas, or some other form or state, used to dissolve, leach, gasify, or extract coal.

(50) "Recreation" means land used for public or private leisure-time activities, including developed recreation facilities, such as parks, camps, and

amusement areas, as well as areas for less intensive uses, such as hiking, canoeing, and other undeveloped recreational uses.

(51) "Reference area" means a land unit maintained under appropriate management for the purpose of measuring vegetation ground cover, productivity, and plant species diversity that are produced naturally or by crop production methods approved by the department. Reference areas must be representative of geology, soil, slope, and vegetation in the permit area.

(52) "Remining" means conducting surface coal mining and reclamation operations that affect previously mined areas (for example, the recovery of additional mineral from existing gob or tailings piles).

(53) "Residential" means land used for single- and multiple-family housing, mobile home parks, or other residential lodgings.

(54) "Restore" or "restoration" means reestablishment after mining and reclamation of the land use that existed prior to mining or to higher or better uses.

(55) (a) "Strip mining" means any part of the process followed in the production of mineral by the opencut method, including mining by the auger method or any similar method that penetrates a mineral deposit and removes mineral directly through a series of openings made by a machine that enters the deposit from a surface excavation or any other mining method or process in which the strata or overburden is removed or displaced in order to recover the mineral.

(b) For the purposes of this part only, strip mining also includes remining and coal preparation.

(c) The terms "remining" and "coal preparation" are not included in the definition of "strip mining" for purposes of Title 15, chapter 35, part 1.

(56) "Subsidence" means a vertically downward movement of overburden materials resulting from the actual mining of an underlying mineral deposit or associated underground excavations.

(57) "Surface owner" means:

(a) a person who holds legal or equitable title to the land surface;

(b) a person who personally conducts farming or ranching operations upon a farm or ranch unit to be directly affected by strip-mining operations or who receives directly a significant portion of income from farming or ranching operations;

(c) the state of Montana when the state owns the surface; or

(d) the appropriate federal land management agency when the United States government owns the surface.

(58) "Topsoil" means the unconsolidated mineral matter that is naturally present on the surface of the earth, that has been subjected to and influenced by genetic and environmental factors of parent material, climate, macroorganisms and microorganisms, and topography, all acting over a period of time, and that is necessary for the growth and regeneration of vegetation on the surface of the earth.

(59) "Underground mining" means any part of the process that is followed in the production of a mineral and that uses vertical or horizontal shafts, slopes, drifts, or incline planes connected with excavations penetrating the mineral stratum or strata. The term includes mining by in situ methods.

(60) "Unwarranted failure to comply" means:

(a) the failure of a permittee to prevent the occurrence of any violation of a permit or any requirement of this part because of indifference, lack of diligence, or lack of reasonable care; or

(b) the failure to abate any violation of a permit or of this part because of indifference, lack of diligence, or lack of reasonable care.

(61) "Waiver" means a document that demonstrates the clear intention to release rights in the surface estate for the purpose of permitting the extraction of subsurface minerals by strip-mining methods.

(62) "Wildlife habitat enhancement feature" means a component of the reclaimed landscape, established in conjunction with land uses other than fish and wildlife habitat, for the benefit of wildlife species, including but not limited to tree and shrub plantings, food plots, wetland areas, water sources, rock outcrops, microtopography, or raptor perches.

(63) "Written consent" means a statement that is executed by the owner of the surface estate and that is written on a form approved by the department to demonstrate that the owner consents to entry of an operator for the purpose of conducting strip-mining operations and that the consent is given only to strip-mining and reclamation operations that fully comply with the terms and requirements of this part. (The definitions of amendment, incidental boundary revision, major revision, and minor revision terminate on occurrence of contingency--sec. 6, Ch. 524, L. 2023.)"

Section 2. Section 82-4-222, MCA, is amended to read:

"82-4-222. Permit application – application revisions. (1) An operator desiring a permit shall file an application that must contain a complete and detailed plan for the mining, reclamation, revegetation, and rehabilitation of the land and water to be affected by the operation. The plan must reflect thorough advance investigation and study by the operator, include all known or readily discoverable past and present uses of the land and water to be affected and the approximate periods of use, and provide:

(a) the location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) the names and addresses of the owners of record and any purchasers under contracts for deed of the surface of the area of land to be affected by the permit and the owners of record and any purchasers under contracts for deed of all surface area within one-half mile of any part of the affected area;

(c) the names and addresses of the present owners of record and any purchasers under contracts for deed of all subsurface minerals in the land to be affected;

(d) the source of the applicant's legal right to mine the mineral on the land affected by the permit;

(e) the permanent and temporary post-office addresses of the applicant;

(f) whether the applicant or any person associated with the applicant holds or has held any other permits under this part and an identification of those permits;

(g) (i) whether the applicant is in compliance with 82-4-251 and, if known, whether each officer, partner, director, or any individual, owning of record or beneficially, alone or with associates, 10% or more of any class of stock of the applicant, is subject to any of the provisions of 82-4-251. If so, the applicant shall certify the fact. The information required in this subsection (1)(g) must be updated and approved by the department in the event of a change in the parties specified in this subsection (1)(g)(i) as a result of bankruptcy or reorganization.

(ii) whether any of the parties or persons specified in subsection (1)(g)(i) have ever had a strip-mining or underground-mining license or permit issued by any other state or federal agency revoked or have ever forfeited a strip-mining or underground-mining bond or a security deposited in lieu of a bond. If so, a detailed explanation of the facts involved in each case must be attached.

(iii) evidence, determined by department rule and in accordance with 82-4-231, that the parties or persons specified in subsection (1)(g)(i) will provide bonding or other financial assurance necessary to meet their financial

[obligations for employee pensions and] obligations to reclaim property in accordance with the requirements of 82-4-231 through 82-4-234. [An operator may not pass the costs associated with the financial obligations for employee pensions established in this subsection (1)(g)(iii) on to purchasers served by the strip or underground mine if the purchasers are dependent on the mine to generate electricity that is consumed by electric customers.]

(h) whether the applicant has a record of outstanding reclamation fees with the federal coal regulatory authority;

(i) the names and addresses of any persons who are engaged in strip-mining or underground-mining activities on behalf of the applicant;

(j) the annual rainfall and the direction and average velocity of the prevailing winds in the area where the applicant has requested a permit;

(k) the results of any test borings or core samplings that the applicant or the applicant's agent has conducted on the land to be affected, including the nature and the depth of the various strata or overburden and topsoil, the quantities and location of subsurface water and its quality, the thickness of any mineral seam, an analysis of the chemical properties of the minerals, including the acidity, sulfur content, and trace mineral elements of any coal seam, as well as the British thermal unit (Btu) content of the seam, and an analysis of the overburden, including topsoil. If test borings or core samplings are submitted, each permit application must contain two sets of geologic cross sections accurately depicting the known geologic makeup beneath the surface of the affected land. Each set must depict subsurface conditions at intervals the department requires across the surface and must run at a 90-degree angle to the other set. The department may not require intervals of less than 500 feet. Each cross section must depict the thickness and geologic character of all known strata, beginning with the topsoil. In addition, each application for an underground-mining permit must be accompanied by cross sections and maps showing the proposed underground locations of all shafts, entries, and haulageways or other excavations to be excavated during the permit period. These cross sections must also include all existing shafts, entries, and haulageways.

(l) the name of a newspaper of general circulation in the locality of the proposed activity in which the applicant will prominently publish at least once a week for 4 successive weeks after submission of the application an announcement of the applicant's application for a strip-mining or underground-mining permit and a detailed description of the area of land to be affected if a permit is granted. If that newspaper is not published in Montana, the applicant shall also provide the name of a newspaper of general circulation in the county in which the proposed operation is located that is published in Montana in which the applicant will publish an announcement and description in accordance with this subsection.

(m) a determination of the probable hydrologic consequences of coal mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime and quantity and quality of water in surface water and ground water systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas, so that cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability can be made. However, this determination is not required until hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency *if the information is available. If the information is not available, the department shall make a determination using hydrologic and geologic information collected by the applicant for the*

purposes of completing the permit application. The permit may not be approved until the information is available and is incorporated into the application. The determination of probable hydrologic consequences must include findings on:

- (i) whether adverse impacts may occur to the hydrologic balance;
- (ii) whether acid-forming or toxic-forming materials are present that could result in the contamination of ground water or surface water supplies;
- (iii) whether the proposed operation may proximately result in contamination, diminution, or interruption of an underground or surface source of water within the proposed permit or adjacent areas that is used for domestic, agricultural, industrial, or other beneficial use; and
- (iv) what impact the operation will have on:
 - (A) sediment yields from the disturbed area;
 - (B) acidity, total suspended and dissolved solids, and other important water quality parameters of local impact;
 - (C) flooding or streamflow alteration;
 - (D) ground water and surface water availability; and
 - (E) other characteristics required by the department that potentially affect beneficial uses of water in and adjacent to the permit area.
- (n) a plan for monitoring ground water and surface water, based upon the determination of probable hydrologic consequences required under subsection (1)(m). The plan must provide for the monitoring of parameters that relate to the availability and suitability of ground water and surface water for current and approved postmining land uses and the objectives for protection of the hydrologic balance.
- (o) a map depicting the projected postmining topography, using cross sections, range diagrams, or other methods approved by the department, showing the manner of spoil placement, showing removal of coal volume and overburden swell, and including:
 - (i) locations and elevations of tie-in points with adjacent unmined drainageways;
 - (ii) approximate locations of primary or highest order drainageways and associated drainage divides in the reclaimed topography; and
 - (iii) projected elevations of primary drainageways and associated drainage divides and generalized slopes with the level of detail appropriate to project the approximate original contour;
- (p) the condition of the land to be covered by the permit prior to any mining, including:
 - (i) the land uses existing at the time of the application and, if the land has a history of previous mining, the uses that preceded any mining;
 - (ii) the capability of the land prior to any mining to support a variety of uses, giving consideration to soil characteristics, topography, and vegetative cover; and
 - (iii) the productivity of the land prior to mining, including appropriate classification as prime farm land, as well as the average yield of food, fiber, forage, or wood products from land under high levels of management;
- (q) a coal conservation plan;
- (r) other or further information as the department may require.
- (2) The application for a permit must be accompanied by maps meeting the requirements of subsections (2)(a) through (2)(n). The maps must:
 - (a) identify the area to correspond with the application;
 - (b) show any adjacent deep mining or surface mining, the boundaries of surface properties, and names of owners of record of the affected area and within 1,000 feet of any part of the affected area;

(c) show the names and locations of all streams, creeks, or other bodies of water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within 1,000 feet of the area;

(d) show by appropriate markings the boundaries of the area of land affected, any cropline of the seam or deposit of mineral to be mined, and the total number of acres involved in the area of land affected;

(e) show the date on which the map was prepared and the north point;

(f) show the final surface and underground water drainage plan on and away from the area of land affected. This plan must indicate the directional and volume flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.

(g) show the proposed location of waste or refuse area;

(h) show the proposed location of temporary subsoil and topsoil storage area;

(i) show the proposed location of all facilities;

(j) show the location of test boring holes;

(k) show the surface location lines of any geologic cross sections that have been submitted;

(l) show a listing of plant species encountered in the area to be affected and their relative dominance in the area, together with an enumeration of tree species and the approximate number of each species occurring per acre on the area to be affected, and the locations generally of the various species of plants;

(m) be certified by a professional engineer or professional land surveyor licensed as provided by Title 37, chapter 67; and

(n) contain other or further information as the department may require.

(3) If the department finds that the probable total annual production at all locations of any strip-mining or underground-coal-mining operation applied for will not exceed 100,000 tons, any determination of probable hydrologic consequences that the department requires and the statement of result of test borings or core samplings must, upon written request of the operator, be performed by a qualified public or private laboratory designated by the department. The department shall assume the cost of the determination and statement to the extent that it has received funds for this purpose.

(4) In addition to the information and maps required by this section, each application for a permit must be accompanied by detailed plans or proposals showing the method of operation, the manner, time or distance, and estimated cost for backfilling, subsidence stabilization, water control, grading work, highwall reduction, topsoiling, planting, and revegetating, and a reclamation plan for the area affected by the operation, which proposals must meet the requirements of this part and rules adopted under this part. The reclamation plan must address the life of the operation and indicate the size, sequence, and the timing of the subareas for which it is anticipated that individual permits will be sought.

(5) Each applicant for a coal mining permit shall submit as part of the application a certificate issued by an insurance company authorized to do business in the state, certifying that the applicant has in force for the strip-mining or underground-mining and reclamation operations for which the permit is sought a public liability insurance policy or evidence that the applicant has satisfied other state or federal self-insurance requirements. This policy must provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of strip-mining or underground-coal-mining and reclamation operations, including use of explosives, and entitled to compensation under applicable provisions of state law. The permittee shall maintain the policy in full force

and effect during the term of the permit and any renewal until all reclamation operations have been completed.

(6) An applicant may revise an application for a permit, a permit amendment, or a permit revision that is pending on January 1, 2004, in order to incorporate the provisions of this part.

(7) A permittee may apply to revise and the department may approve an application to incorporate the provisions of this part into a reclamation plan approved before January 1, 2004. The reclamation plan may be revised whether or not reclamation has been completed pursuant to the reclamation plan.

(8) Each applicant for a strip-mining or underground-mining reclamation permit shall file a copy of the applicant's application for public inspection with the clerk and recorder at the courthouse of the county in which the major portion of mining is proposed to occur or at another accessible public office or facility approved by the department. (Bracketed language in subsection (1)(g)(iii) terminates on occurrence of contingency--sec. 4, Ch. 484, L. 2019.)"

Section 3. Severability. If a portion of [this act] is invalid, all valid portions that are severable from the invalid portion remain in effect. If a portion of [this act] is invalid in one or more of its applications, the portion remains in effect in all valid applications that are severable from the invalid applications.

Section 4. Contingent voidness. (1) If any provision of [this act] is disapproved by the United States secretary of the interior pursuant to 30 CFR 732, then that portion of [this act] is void.

(2) Within 15 days of the effective date of the disapproval under subsection (1), the department of environmental quality shall notify the code commissioner, certifying that the disapproval under subsection (1) has occurred.

Section 5. Effective date. [This act] is effective on passage and approval.

Section 6. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to actions for judicial review or other causes of action challenging the issuance of a permit petition for review, amendment, license, arbitration, action, certificate, or inspection that are pending but not yet decided on or after [the effective date of this act].

Approved May 5, 2025

CHAPTER NO. 465

[HB 601]

AN ACT ESTABLISHING A MEDICAID COMMUNITY ASSISTER PORTAL; PROVIDING FOR REQUIRED AND OPTIONAL PORTAL SERVICES; AND PROVIDING A DEFINITION.

Be it enacted by the Legislature of the State of Montana:

Section 1. Medicaid community assister portal. (1) By May 1, 2026, the department shall establish an online portal that allows a community assister to help an applicant or enrollee who seeks assistance from that community assister to apply for medicaid coverage and to submit required documents.

(2) The online portal must allow a community assister to:

- (a) review the status of a medicaid application or redetermination;
- (b) view notices from the department to the applicant or enrollee;
- (c) report a change in an applicant or enrollee's eligibility status;
- (d) view actions required by the applicant or enrollee; and

- (e) update the applicant or enrollee's contact information.
- (3) The online portal may allow a community assister to:
 - (a) submit an application for initial coverage or redetermination on behalf of the applicant or enrollee; or
 - (b) upload verification documents for the applicant or enrollee.
- (4) The online portal must allow a medicaid applicant or enrollee to designate one or more community assisters to help the applicant or enrollee with the activities prescribed under subsection (2) and allowed under subsection (3).
- (5) For the purposes of this section, "community assister" means a person or organization who helps individuals apply for health coverage under the Montana medicaid program established in 53-6-101.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, part 1, apply to [section 1].

Approved May 5, 2025

CHAPTER NO. 466

[HB 606]

AN ACT GENERALLY REVISING EDUCATION LAWS RELATED TO SCHOOL DISTRICT REORGANIZATION; CREATING A PATHWAY FOR VARIOUS TYPES OF SCHOOL DISTRICTS TO REORGANIZE TO FORM A UNIFIED K-12 SCHOOL DISTRICT; REQUIRING COUNTY SUPERINTENDENTS OF SCHOOLS TO MODIFY SCHOOL DISTRICT BOUNDARIES WHEN NECESSARY TO ACCOMMODATE REORGANIZATIONS; REPLACING THE WORD CONSOLIDATION WITH REORGANIZATION AS APPLICABLE IN EDUCATION LAWS; AMENDING SECTIONS 20-3-205, 20-3-302, 20-3-312, 20-3-342, 20-6-202, 20-6-314, 20-6-410, 20-6-411, 20-6-413, 20-6-414, 20-6-423, 20-6-424, 20-6-704, 20-9-311, AND 20-9-502, MCA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, rural schools serve as the foundation of Montana's rural communities, providing educational, social, and economic stability; and

WHEREAS, ensuring administrative efficiencies and financial sustainability will help preserve the viability of small rural schools for future generations; and

WHEREAS, collaboration among students, families, and educators fosters a stronger, more effective learning environment; and

WHEREAS, school district reorganization does not equate to school closures but rather promotes resource-sharing and operational efficiency; and

WHEREAS, aligning district boundaries will expand educational opportunities, enhance school choice, and address tax inequities associated with out-of-district attendance; and

WHEREAS, unified K-12 school districts provide a seamless educational experience, ensuring curricular consistency and student success from kindergarten through high school graduation; and

WHEREAS, the Montana Legislature upholds the principle of local governance in education, recognizing the authority of elected school district trustees as enshrined in Article X, section 8, of the Montana Constitution.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-3-205, MCA, is amended to read:

“20-3-205. Powers and duties. (1) The county superintendent has general supervision of the schools of the county within the limitations prescribed by this title and shall perform the following duties or acts:

(a) determine, establish, and reestablish trustee nominating districts in accordance with the provisions of 20-3-352, 20-3-353, and 20-3-354;

(b) administer and file the oaths of members of the boards of trustees of the districts in the county in accordance with the provisions of 20-3-307;

(c) register the teacher or specialist certificates or emergency authorization of employment of any person employed in the county as a teacher, specialist, principal, or district superintendent in accordance with the provisions of 20-4-202;

(d) file a copy of the audit report for a district in accordance with the provisions of 20-9-203;

(e) classify districts in accordance with the provisions of 20-6-201 and 20-6-301;

(f) keep a transcript of the district boundaries of the county;

(g) fulfill all responsibilities assigned under the provisions of this title regulating the organization, alteration, or abandonment of districts;

(h) act on any unification proposition and, if approved, establish additional trustee nominating districts in accordance with 20-6-312 and 20-6-313;

(i) estimate the average number belonging (ANB) of an opening school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

(j) process and, when required, act on school isolation applications in accordance with the provisions of 20-9-302;

(k) complete the budgets, compute the budgeted revenue and tax levies, file final budgets and budget amendments, and fulfill other responsibilities assigned under the provisions of this title;

(l) monthly, unless otherwise provided by law, order the county treasurer to apportion state money, county school money, and any other school money subject to apportionment in accordance with the provisions of 20-9-212, 20-9-347, 20-10-145, or 20-10-146;

(m) act on any request to transfer average number belonging (ANB) in accordance with the provisions of 20-9-313(1)(c);

(n) calculate the estimated budgeted general fund sources of revenue in accordance with the general fund revenue provisions of the general fund part of this title;

(o) compute the revenue and compute the district and county levy requirements for each fund included in each district's final budget and report the computations to the board of county commissioners in accordance with the provisions of the general fund, transportation, bonds, and other school funds parts of this title;

(p) file and forward bus driver certifications, transportation contracts, and state transportation reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;

(q) for districts that do not employ a district superintendent or principal, recommend library book and textbook selections in accordance with the provisions of 20-7-204 or 20-7-602;

(r) notify the superintendent of public instruction of a textbook dealer's activities when required under the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of this title;

(s) act on district requests to allocate federal money for indigent children for school food services in accordance with the provisions of 20-10-205;

(t) perform any other duty prescribed from time to time by this title, any other act of the legislature, the policies of the board of public education, the

policies of the board of regents relating to community college districts, or the rules of the superintendent of public instruction;

(u) administer the oath of office to trustees without the receipt of pay for administering the oath;

(v) keep a record of official acts, preserve all reports submitted to the superintendent under the provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable to the administration of the office, and surrender all records, books, supplies, and equipment to the next superintendent;

(w) within 90 days after the close of the school fiscal year, publish an annual report in the county newspaper stating the following financial information for the school fiscal year just ended for each district of the county:

(i) the total of the cash balances of all funds maintained by the district at the beginning of the year;

(ii) the total receipts that were realized in each fund maintained by the district;

(iii) the total expenditures that were made from each fund maintained by the district; and

(iv) the total of the cash balances of all funds maintained by the district at the end of the school fiscal year; and

(x) hold meetings for the members of the trustees from time to time at which matters for the good of the districts must be discussed.

(2) (a) When a district in one county annexes a district in another county, the county superintendent of the county where the annexing district is located shall perform the duties required by this section.

(b) When two or more districts in more than one county ~~consolidate~~ *reorganize*, the duties required by this section must be performed by the county superintendent designated in the same manner as other county officials in 20-9-202."

Section 2. Section 20-3-302, MCA, is amended to read:

"20-3-302. Legislative intent to elect less than majority of trustees.

(1) It is the intention of the legislature that the terms of a majority of the trustee positions of any district with elected trustees may not regularly expire and be subject to election on the same regular school election day. In elementary districts, there may not be more than three trustee positions in first-class districts, two trustee positions in second-class districts or third-class districts having five trustee positions, or one trustee position in third-class districts having three trustee positions regularly subject to election at the same time. In high school districts there may not be more than two additional trustee positions in first- or second-class districts or more than one in third-class districts regularly subject to election at the same time. In county high school districts, there may not be more than two trustee positions to be filled by members residing in the elementary district where the county high school building is located or more than one trustee position to be filled by members residing outside of the elementary district where the county high school building is located subject to election at the same time.

(2) In the following circumstances relating to newly created trustee positions, the initial terms may be shortened to comply with the intent of subsection (1):

(a) ~~the consolidation~~ *reorganization of school districts* under the provisions of 20-6-423 of ~~two or more elementary districts to form an elementary district, of two or more high school districts to form a high school district, or of two or more K-12 districts to form a K-12 district;~~

(b) the establishment of additional trustee positions of a high school district under the provisions of 20-3-353 or 20-3-354 or new trustee positions under the provisions of 20-3-352(3);

(c) the change of a district's classification under the provisions of 20-6-201 or 20-6-301;

(d) the establishment of additional elementary trustee positions under the provisions of 20-3-341(3); or

(e) the establishment of additional high school trustee positions under the provisions of 20-6-313.

(3) If the change of a district's classification under 20-6-201 or 20-6-301 decreases the number of trustee positions, the positions must be eliminated in a manner that complies with the intent of subsection (1).

(4) Although the legislature intends that the terms of a majority of trustees of any district may not regularly expire and be subject to election at the same time, it is recognized that filling a vacancy under 20-3-308 may lead to a subsequent school election in which a majority of trustee positions are subject to election at the same time."

Section 3. Section 20-3-312, MCA, is amended to read:

"20-3-312. Trustees of district affected by boundary change. The trustees of any district to which the territory of another district is attached as a result of annexation, abandonment, territory transfer, or any other method of changing district boundaries, except by the ~~consolidation~~ *reorganization* of districts *under 20-6-423*, continue to be the trustees of the district with the same powers, duties, and responsibilities and subject to the same limitations provided by law as if there had been no boundary change. In the case of district ~~consolidation~~ *reorganization*, the appointed trustees of the resulting district shall assume their trustee positions under the authority of 20-6-423."

Section 4. Section 20-3-342, MCA, is amended to read:

"20-3-342. Determination of terms after consolidation reorganization of elementary districts. Whenever the trustees are elected at one regular school election under the circumstances described in 20-3-302(2)(a), the members who are elected shall draw by lot to determine their terms of office. The terms of office by trustee position must be:

(1) three for 3 years, two for 2 years, and two for 1 year in a first-class elementary district;

(2) two for 3 years, two for 2 years, and one for 1 year in second-class elementary districts and third-class elementary districts having five trustee positions; or

(3) one for 3 years, one for 2 years, and one for 1 year in a third-class elementary district having three trustee positions."

Section 5. Section 20-6-202, MCA, is amended to read:

"20-6-202. Time limitation for boundary changes. An elementary district may not be created and elementary district boundaries may not be changed between the first day of January and the fourth Monday of August of any calendar year except when:

(1) the entire territory of a district is annexed or attached to another district;
(2) the entire territory of the portion of a joint district located in one county is annexed or attached to another district; or

(3) two or more districts are ~~consolidated~~ *reorganized* in their entirety."

Section 6. Section 20-6-314, MCA, is amended to read:

"20-6-314. Time limitations for boundary changes. A high school district may not be created and a high school district boundary may not be changed between the first day of January and the fourth Monday of August of any calendar year except when:

(1) the entire territory of a high school district is annexed or attached to another high school district;

(2) the entire territory or portion of a joint high school district located in one county is annexed or attached to another high school district; or

(3) two or more districts are ~~consolidated~~ *reorganized* in their entirety.”

Section 7. Section 20-6-410, MCA, is amended to read:

“20-6-410. Tenure protected -- hiring preference for employees.

(1) Whenever two or more school districts ~~consolidate~~ *reorganize* or join through annexation to ~~organize into form~~ a single district in the manner provided for in Title 20, chapter 6, a principal, teacher, or other certified employee of the school districts who has a right of tenure under Montana law must be given absolute preference in hiring for the first school fiscal year for any vacant position with the ~~consolidated~~ *reorganized* or enlarged district for which the employee is qualified with the required certification endorsements. Upon acceptance of a position, the certified employee continues to have tenure in the ~~consolidated~~ *reorganized* or enlarged district and the board of trustees of the ~~consolidated~~ *reorganized* or enlarged school district in which the person will perform duties shall recognize and give effect to the right of tenure.

(2) A noncertified, nonprobationary employee of a school district that ~~consolidates~~ *reorganizes* or joins another district through annexation must be given preference in hiring for the first school fiscal year for any vacant position with the ~~consolidated~~ *reorganized* or enlarged district for which the employee has substantially equal qualifications and, upon acceptance of a position, may not be given probationary status.”

Section 8. Section 20-6-411, MCA, is amended to read:

“20-6-411. Bonded indebtedness to remain with original territory except when assumed by election. Whenever district boundaries are changed in any manner prescribed in this title, the existing bonded indebtedness against any district or territory affected by a change of boundaries remains the indebtedness of the original territory against which the bonds were issued and must be paid by levies on the original territory, except when districts are ~~consolidated~~ *reorganized* with the mutual assumption of bonded indebtedness or when a district is annexed with a joint assumption of the annexing district's bonded indebtedness. Any money to the credit of the debt service fund of a district when its boundaries are changed must be used to pay the existing bond principal and interest of the original territory issuing the bonds as it becomes due or for bond redemption under the bonding provisions of this title.”

Section 9. Section 20-6-413, MCA, is amended to read:

“20-6-413. Cash disposition when district ceases to exist -- special levy for tuition debt. Whenever a district ceases to exist in any manner prescribed in this title, except when districts are ~~consolidated~~ *reorganized* under 20-6-423, the cash on hand to the credit of the funds of the district and the debts of the former district must be allocated in the following manner:

(1) Any cash to the credit of the district must be used to pay any debts of the district, including bonded indebtedness, except that any cash available in the debt service fund must be used first to pay bond interest and all outstanding bonds.

(2) If any cash remains to the credit of the district after paying its debts, the cash must be transferred by the county treasurer to the credit of the district or districts assuming its territory. When the territory is assumed by more than one district, the remaining cash must be prorated between the districts on the basis of the taxable value of the territory assumed by each district as determined by the county superintendent.

(3) If any tuition debt remains as an obligation of the district, the tuition debt is the obligation of the taxable property of the discontinued district, except when the tuition debt has been assumed by the ~~consolidated~~ *newly formed* or annexing district. The tuition debt must be financed by a mill levy on the property of the discontinued district and paid from these proceeds by the county superintendent.

(4) If any debts, other than bonded indebtedness and tuition, remain as an obligation of the district after the cash has been utilized under the provisions of subsection (1), the debts must be assigned in the same manner prescribed for the transfer of cash under subsection (2)."

Section 10. Section 20-6-414, MCA, is amended to read:

"20-6-414. Cash disposition when districts ~~consolidated~~ reorganize. Whenever two or more districts are ~~consolidated~~ *reorganized* without the mutual assumption of bonded indebtedness, all cash and debts, other than cash credited to the debt service fund and debts for bonded indebtedness, must be credited or debited to the same types of funds of the ~~consolidated~~ *newly formed* district as the funds from which they were transferred by the county treasurer. In addition, when two or more districts are ~~consolidated~~ *reorganized* with the mutual assumption of bonded indebtedness, the cash credited to the debt service fund and the bonded indebtedness also must be transferred to a similar fund of the ~~consolidated~~ *newly formed* district."

Section 11. Section 20-6-423, MCA, is amended to read:

"20-6-423. District ~~consolidation~~ reorganization. (1) (a) Any two or more contiguous elementary school districts may ~~consolidate to organize an~~ *reorganize to form a single* elementary district.

(b) Any two or more contiguous high school districts may ~~be consolidated to organize a~~ *reorganize to form a single* high school district.

(c) Any two or more contiguous K-12 school districts may ~~be consolidated to organize a~~ *reorganize to form a single* K-12 school district.

(d) *Any two or more school districts may reorganize to form a single K-12 school district.*

(e) ~~The consolidation~~ *reorganization* must be conducted as provided in this section.

(2) (a) A ~~consolidation~~ *reorganization* proposition may be introduced, individually, in each of the districts by either of the two following methods:

(i) the trustees may pass a resolution requesting the county superintendent of the county where the district is located to order an election to consider a ~~consolidation~~ *reorganization* proposition involving their district; or

(ii) not less than 20% of the electors of an individual district who are qualified to vote under the provisions of 20-20-301 may petition the county superintendent of the county where the district is located requesting an election to consider a ~~consolidation~~ *reorganization* proposition involving their district.

(b) (i) ~~The~~ *When two or more districts reorganize under subsections (1)(a) through (1)(c), the* resolution or petition must state whether the ~~consolidation~~ *reorganization* is to be made with or without the joint assumption of the bonded indebtedness of each district by all districts included in the ~~consolidation~~ *reorganization*. The resolution or petition from each district must agree on whether or not there will be joint assumption of bonded indebtedness. Without agreement, the ~~consolidation~~ *reorganization* proposition may not be considered further.

(ii) *When two or more districts reorganize under subsection (1)(d), any bonded indebtedness of a district remains an obligation of the original territory of the district.*

(3) When a county superintendent has received a resolution or a valid petition from each of the districts included in the ~~consolidation~~ *reorganization* proposition, the county superintendent shall, within 10 days after the receipt of the last resolution or petition and as provided by 20-20-201, order the trustees of each district included in the ~~consolidation~~ *reorganization* proposition to call a ~~consolidation~~ *reorganization* election to be held no later than December 31 preceding the school year in which the ~~consolidation~~ *reorganization* is to become effective. If the districts involved in the ~~consolidation~~ *reorganization* proposition are located in more than one county, the county superintendents in both counties shall jointly order the district to call a ~~consolidation~~ *reorganization* election.

(4) Each district, individually, shall call and conduct an election in the manner prescribed in this title for school elections and subject to additional requirements of subsections (5) and (6). Any elector qualified to vote under the provisions of 20-20-301 may vote.

(5) (a) If the districts to be ~~consolidated~~ *reorganized* are to jointly assume the bonded indebtedness of each district involved in the ~~consolidation~~ *reorganization*, the ballots must read, after stating the ~~consolidation~~ *reorganization* proposition, "FOR ~~consolidation~~ *reorganization* with assumption of bonded indebtedness" and "AGAINST ~~consolidation~~ *reorganization* with assumption of bonded indebtedness".

(b) When the trustees in each district conducting an election canvass the vote under the provisions of 20-20-415, they shall determine the number of votes "FOR" and "AGAINST" the proposition.

(c) The proposition is approved in the district if a majority of those voting approve the proposition.

(6) If the districts to be ~~consolidated~~ *reorganized* are not to jointly assume the bonded indebtedness of each district involved in the ~~consolidation~~ *reorganization*, the ballots must read, after stating the ~~consolidation~~ *reorganization* proposition, "FOR ~~consolidation~~ *reorganization* without assumption of bonded indebtedness" and "AGAINST ~~consolidation~~ *reorganization* without assumption of bonded indebtedness". The ~~consolidation~~ *reorganization* proposition is approved by a district if a majority of those voting in a district approve the proposition. Otherwise it is disapproved.

(7) (a) After the county superintendent of each county where a district involved in the ~~consolidation~~ *reorganization* proposition is located has received the election certification provided for in 20-20-416 from the trustees of each district included in a ~~consolidation~~ *reorganization* proposition, the appropriate county superintendent shall determine if the ~~consolidation~~ *reorganization* proposition has been approved in each district. If each district has approved the ~~consolidation~~ *reorganization* proposition, each county superintendent shall, within 10 days after the receipt of the last election certificate, order the ~~consolidation~~ *reorganization* of the districts effective July 1 of the ensuing school fiscal year. The order must:

(i) for ~~consolidation~~ *reorganization* with the joint assumption of bonded indebtedness, specify that there will be joint assumption of bonded indebtedness between the owners of all taxable real and personal property in each district forming the ~~consolidated~~ *reorganized* district;

(ii) specify the number of the ~~consolidated~~ *reorganized* district;

(iii) for a *reorganization* under subsection (1)(d), order any boundary changes necessary to create the K-12 district; and

(iii)(iv) establish an interim board of trustees for the ~~consolidated~~ *reorganized* district as provided in 20-6-424. The trustees shall serve until

their successors are elected at the next succeeding regular school election and qualified.

(b) Each county superintendent shall send a copy of the order to the board of county commissioners of each county where a district involved in the ~~consolidation~~ *reorganization* proposition is located and to the trustees of each district incorporated in the ~~consolidation~~ *reorganization* order.

(8) If any district included in the ~~consolidation~~ *reorganization* proposition disapproves the ~~consolidation~~ *reorganization* proposition, the ~~consolidation~~ *reorganization* of all districts fails and the appropriate county superintendent shall notify each district of the disapproval of the ~~consolidation~~ *reorganization* proposition.”

Section 12. Section 20-6-424, MCA, is amended to read:

“20-6-424. Interim governance of consolidated reorganized district. (1) Upon passage of a ~~consolidation~~ *reorganization* proposition under the provisions of 20-6-423, an interim board of trustees made up of all of the members of the boards of trustees of the districts that ~~consolidated~~ *reorganized* shall serve as the trustees for the ~~consolidated~~ *newly formed* district from the date of the ~~consolidation~~ *reorganization* order until the newly elected board of the ~~consolidated~~ *newly formed* district is organized under 20-3-321. The interim board of trustees shall elect a presiding officer from among its members.

(2) The trustees of each district incorporated in the ~~consolidation~~ *reorganization* order shall continue to perform those duties related to the operation of their individual districts until the effective date of the ~~consolidation~~ *reorganization*. The interim board of trustees shall perform those duties related to the formation of and transition to the ~~consolidated~~ *newly formed* district, including but not limited to:

(a) calling an election of the new board of trustees for the ~~consolidated~~ *newly formed* district to be held on the regular election day preceding the effective date of the ~~consolidation~~ *reorganization*; and

(b) if necessary, calling an election under 20-9-353 for the ensuing budget year of the ~~consolidated~~ *newly formed* district.

(3) At the next regular school election following the ~~consolidation~~ *reorganization* election, trustees for the ~~consolidated~~ *newly formed* district must be elected in accordance with the election provisions of Title 13 and Title 20. The term of office is 3 years, except that the initial terms of the newly elected trustees must be selected by lot in order to comply with the provisions of 20-3-302.

(4) The interim board of trustees must be dissolved upon the organization of the newly elected trustees pursuant to 20-3-321.”

Section 13. Section 20-6-704, MCA, is amended to read:

“20-6-704. Dissolution of K-12 school district. (1) Except as provided in subsection (2), in order to dissolve a K-12 district under the provisions of this section, the trustees of a district shall submit for approval to the electors of the K-12 district a proposition dissolving the K-12 district for the purpose of annexing or ~~consolidating~~ *reorganizing* the K-12 district’s elementary or high school program with a contiguous school district or districts in an ensuing school fiscal year under the provisions of 20-6-422 or 20-6-423.

(2) If the trustees of the school district determine that the creation or continuation of the K-12 district has resulted in or will result in the loss of federal funding for the elementary or high school programs and that it is in the best interest of the district to dissolve into the original elementary district and high school district that existed prior to the formation of the K-12 district, the trustees may dissolve the district under the following procedure:

(a) The trustees of the district shall pass a resolution requesting the county superintendent to order a dissolution of the district.

(b) When the county superintendent receives the resolution from the district, the county superintendent shall, within 10 days, order the dissolution of the K-12 district into the original elementary district and high school district, to take effect on July 1 of the ensuing school fiscal year. Within 30 days of the order, the county superintendent shall send a copy of the order to the board of county commissioners, the trustees of the district, and the superintendent of public instruction.

(3) If the entire territory of the dissolving K-12 district will be annexed to or ~~consolidated~~ *reorganized* with a contiguous district or districts, the resolution or petition required in subsection (1) or (2) must contain a description of the manner in which the real and personal property and funds of the district are to be apportioned in the dissolution of the district and the subsequent annexation to or ~~consolidation~~ *reorganization* with one or more other districts. If a portion of the dissolving K-12 district will not be annexed or ~~consolidated~~ *reorganized* with another district or districts, the resolution or petition must contain a description of the manner in which the property, funds, and financial obligations, including bonded indebtedness, of the K-12 district are to be apportioned to the district or districts whose territory is not annexed to or ~~consolidated~~ *reorganized* with another district.

(4) After the county superintendent receives the certificate of election provided for in 20-20-416 from the trustees of the K-12 district and from each district included in a ~~consolidation~~ *reorganization* proposition, the county superintendent shall determine whether the dissolution and annexation or ~~consolidation~~ *reorganization* proposition or propositions have been approved. If the K-12 district has approved the dissolution proposition and each district involved in a ~~consolidation~~ *reorganization* has approved the ~~consolidation~~ *reorganization* proposition, the county superintendent shall, within 10 days after the receipt of the election certificate, order the dissolution of the K-12 district into the original elementary district and high school district, to take effect on July 1 of the ensuing school fiscal year. Within 30 days of the order, the county superintendent shall send a copy of the dissolution order to the board of county commissioners, the trustees of the district included in the dissolution order, and the superintendent of public instruction.

(5) Whenever a K-12 district is dissolved, the following provisions apply:

(a) The trustees of the district whose territory is not annexed or ~~consolidated~~ *upon reorganized on* dissolution of the K-12 district are responsible for the execution of remaining financial obligations of the K-12 district and for the apportionment between the elementary and high school programs of any obligations not identified in the resolution required under subsection (3).

(b) The provisions of 20-6-410 apply for tenure teachers in the dissolution of a K-12 district.

(c) For purposes of applying the budget limitation provisions of 20-9-308, the budget of a K-12 district during its last year of operations as a K-12 district will be prorated based on rules promulgated by the superintendent of public instruction."

Section 14. Section 20-9-311, MCA, is amended to read:

"20-9-311. Calculation of average number belonging (ANB) – 3-year averaging. (1) Average number belonging (ANB) must be computed for each budget unit as follows:

(a) compute an average enrollment by adding a count of regularly enrolled pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on the first Monday in

February of the prior school fiscal year or the next school day if those dates do not fall on a school day, and divide the sum by two; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than the minimum aggregate hours under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) (a) Except as provided in subsection (4)(d), for the purpose of calculating ANB, enrollment in an education program:

(i) from 180 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time enrollment;

(ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time enrollment;

(iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time enrollment; and

(iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

(b) Except as provided in subsection (4)(d), enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

(c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on the hours necessary and appropriate to provide the course within a regular classroom schedule.

(d) A school district may include in its calculation of ANB a pupil who is enrolled in a program providing fewer than the required aggregate hours of pupil instruction required under subsection (4)(a) or (4)(b) if the pupil has demonstrated proficiency in the content ordinarily covered by the instruction as determined by the school board using district assessments. The ANB of a pupil under this subsection (4)(d) must be converted to an hourly equivalent based on the hours of instruction ordinarily provided for the content over which the student has demonstrated proficiency.

(e) (i) Except as provided in subsection (4)(e)(ii), a pupil in kindergarten through grade 12 who is concurrently enrolled in more than one public school, program, or district may not be counted as more than one full-time pupil for ANB purposes. When a pupil is concurrently enrolled in more than one district, any fractional enrollment under subsection (4)(a) must be attributed first to a pupil's nonresident district.

(ii) A pupil who participates in a jumpstart program under Title 20, chapter 7, part 18, may be counted as up to 1 1/4 enrollment for ANB purposes. A district shall add one-quarter enrollment for a pupil who participated in an early literacy jumpstart program to the pupil's regular enrollment count under this subsection (4) in both the October and February enrollment counts following the student's participation in the jumpstart program.

(5) For a district that is transitioning from a half-time to a full-time kindergarten program, the state superintendent shall count kindergarten enrollment in the previous year as full-time enrollment for the purpose of calculating ANB for the elementary programs offering full-time kindergarten in the current year. For the purposes of calculating the 3-year ANB, the superintendent of public instruction shall count the kindergarten enrollment as one-half enrollment and then add the additional kindergarten ANB to the 3-year average ANB for districts offering full-time kindergarten.

(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) (a) The enrollment of preschool pupils, as provided in 20-7-117, may not be included in the ANB calculations.

(b) Except as provided in subsection (7)(c), a pupil who has reached 19 years of age by September 10 of the school year may not be included in the ANB calculations.

(c) A pupil with disabilities who is over 19 years of age and has not yet reached 21 years of age by September 10 of the school year and who is receiving special education services from a school district pursuant to 20-7-411(4)(a) may be included in the ANB calculations if:

(i) the student has not graduated;

(ii) the student is eligible for special education services and is likely to be eligible for adult services for individuals with developmental disabilities due to the significance of the student's disability; and

(iii) the student's individualized education program has identified transition goals that focus on preparation for living and working in the community following high school graduation since age 16 or the student's disability has increased in significance after age 16.

(d) A school district providing special education services pursuant to subsection (7)(c) is encouraged to collaborate with agencies and programs that serve adults with developmental disabilities in meeting the goals of a student's transition plan.

(8) The average number belonging of the regularly enrolled pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled pupils attending the schools of the district, except that:

(a) the ANB is calculated as a separate budget unit when:

(i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and incorporated territory is not involved in the district, the number of regularly enrolled pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(iii) the superintendent of public instruction approves an application not to aggregate when geographic barriers exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, that would result in an unusual hardship to the pupils of the school if they were transported to another school, the number of regularly enrolled pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district; or

(iv) two or more districts ~~consolidate~~ *reorganize* or annex under the provisions of 20-6-422 or 20-6-423, the ANB and the basic entitlements of the component districts must be calculated separately for a period of 3 years following the ~~consolidation~~ *reorganization* or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional years as follows:

(A) 75% of the basic entitlement for the fourth year;

(B) 50% of the basic entitlement for the fifth year; and

(C) 25% of the basic entitlement for the sixth year.

(b) when a junior high school has been approved and accredited as a junior high school, all of the regularly enrolled pupils of the junior high school must be considered as high school district pupils for ANB purposes;

(c) when a middle school has been approved and accredited, all pupils below the 7th grade must be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high school pupils for ANB purposes; or

(d) when a school has been designated as nonaccredited by the board of public education because of failure to meet the board of public education's assurance and performance standards, the regularly enrolled pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district.

(9) The district shall provide the superintendent of public instruction with semiannual reports of school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the superintendent.

(10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program provided by the district through any combination of in-person or remote instruction may be included for ANB purposes only if the pupil is offered access to the complete range of educational services for the basic education program required by the accreditation standards adopted by the board of public education.

(b) Access to school programs and services for a student placed by the trustees in a private program for special education may be limited to the programs and services specified in an approved individual education plan supervised by the district.

(c) Access to school programs and services for a student who is incarcerated in a facility, other than a youth detention center, may be limited to the programs and services provided by the district at district expense under an agreement with the incarcerating facility.

(d) This subsection (10) may not be construed to require a school district to offer access to activities governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a pupil who is not otherwise eligible under the rules of the organization.

(11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this title and who is:

(a) a resident of the district or a nonresident student admitted by trustees under a student attendance agreement and who is attending a school or an offsite instructional setting of the district;

(b) unable to attend school due to a medical reason certified by a medical doctor and receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(c) unable to attend school due to the student's incarceration in a facility, other than a youth detention center, and who is receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(d) receiving special education and related services, other than day treatment, under a placement by the trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's expense under an approved individual education plan supervised by the district;

(e) participating in the running start program at district expense under 20-9-706;

(f) receiving educational services, provided by the district, using appropriately licensed district staff at a private residential program or private residential facility licensed by the department of public health and human services;

(g) enrolled in an educational program or course provided at district expense using remote delivery methods, including but not limited to tutoring, distance learning programs, online programs, and technology delivered learning programs. The pupil:

(i) must meet the residency requirements for that district as provided in 1-1-215;

(ii) shall live in the district and must be eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or

(iii) must be enrolled in the educational program or course under a mandatory attendance agreement as provided in 20-5-321; or

(iv) must be receiving remote instruction under 20-7-118(1)(c).

(h) a resident of the district attending the Montana youth challenge program or a Montana job corps program under an interlocal agreement with the district under 20-9-707.

(12) A district shall, for ANB purposes, calculate the enrollment of an eligible Montana youth challenge program participant as half-time enrollment.

(13) (a) A district may, for ANB purposes, include in the October and February enrollment counts an individual who is otherwise eligible under this title and who during the prior school year:

(i) resided in the district;

(ii) was not enrolled in the district or was not enrolled full time; and

(iii) completed an extracurricular activity with a duration of at least 6 weeks.

(b) (i) Except as provided in subsection (13)(b)(ii), each completed extracurricular activity under subsection (13)(a) may be counted as one-sixteenth enrollment for the individual, but under this subsection (13) the individual may not be counted as more than one full-time enrollment for ANB purposes.

(ii) Each completed extracurricular activity lasting longer than 18 weeks may be counted as one-eighth enrollment.

(c) For the purposes of this section, "extracurricular activity" means:

(i) a sport or activity sanctioned by an organization having jurisdiction over interscholastic activities, contests, and tournaments;

(ii) an approved career and technical student organization, pursuant to 20-7-306; or

(iii) a school theater production.

(14) (a) For an elementary or high school district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever generates the greatest maximum general fund budget.

(b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and high school programs pursuant to subsection (14)(a) and then combined.

(15) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

(a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the previous 2 school fiscal years; and

(b) dividing the sum calculated under subsection (15)(a) by three.”

Section 15. Section 20-9-502, MCA, is amended to read:

“20-9-502. Purpose and authorization of building reserve fund – subfund structure. (1) The trustees of any district may establish a building reserve fund to budget for and expend funds for any of the purposes set forth in this section. Appropriate subfunds must be created to ensure separate tracking of the expenditure of funds from voted and nonvoted levies and transfers for school safety pursuant to 20-9-236.

(2) (a) A voted levy may be imposed and a subfund must be created with the approval of the qualified electors of the district for the purpose of raising money for the future construction, equipping, or enlarging of school buildings or for the purpose of purchasing land needed for school purposes in the district. In order to submit to the qualified electors of the district a building reserve proposition for the establishment of or addition to a building reserve, the trustees shall pass a resolution that specifies:

(i) the purpose or purposes for which the new or addition to the building reserve will be used;

(ii) the duration of time over which the new or addition to the building reserve will be raised in annual, equal installments;

(iii) the total amount of money that will be raised during the duration of time specified for the levy; and

(iv) any other requirements under 15-10-425 and 20-20-201 for the calling of an election.

(b) Except as provided in subsection (4)(b), a building reserve tax authorization may not be for more than 20 years.

(c) The election must be conducted in accordance with the school election laws of this title, and the electors qualified to vote in the election must be qualified under the provisions of 20-20-301. The ballot for a building reserve proposition must be substantially in compliance with 15-10-425.

(d) The building reserve proposition is approved if a majority of those electors voting at the election approve the establishment of or addition to the building reserve. The annual budgeting and taxation authority of the trustees for a building reserve is computed by dividing the total authorized amount by the specified number of years. The authority of the trustees to budget and impose the taxation for the annual amount to be raised for the building reserve lapses when, at a later time, a bond issue is approved by the qualified electors of the district for the same purpose or purposes for which the building reserve fund of the district was established. Whenever a subsequent bond issue is made for the same purpose or purposes of a building reserve, the money in the building reserve must be used for the purpose or purposes before any money realized by the bond issue is used.

(3) (a) A subfund must be created to account for revenue and expenditures for school major maintenance and repairs authorized under this subsection (3). The trustees of a district may authorize and impose a levy of no more than 10 mills on the taxable value of all taxable property within the district for that school fiscal year for the purposes of raising revenue for identified improvements or projects meeting the requirements of 20-9-525(2). The 10-mill limit under this subsection (3) must be calculated using the district’s total taxable valuation most recently certified by the department of revenue under 15-10-202. The amount of money raised by the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to 20-9-525(3) may not exceed the district’s school major maintenance

amount. For the purposes of this section, the term “school major maintenance amount” means the sum of \$15,000 and the product of \$110 multiplied by the district’s budgeted ANB for the prior fiscal year. To authorize and impose a levy under this subsection (3), the trustees shall:

(i) following public notice requirements pursuant to 20-9-116, adopt no later than March 31 of each fiscal year a resolution:

(A) identifying the anticipated improvements or projects for which the proceeds of the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to 20-9-525(3) will be used; and

(B) estimating a total dollar amount of money to be raised by the levy, the deposits and transfers authorized under subsection (3)(f) of this section, anticipated state aid pursuant to 20-9-525(3), and the resulting estimated number of mills to be levied using the district’s taxable valuation most recently certified by the department of revenue under 15-10-202; and

(ii) include the amount of any final levy to be imposed as part of its final budget meeting noticed in compliance with 20-9-131.

(b) Proceeds from the levy may be expended only for the purposes under 20-9-525(2), and the expenditure of the money must be reported in the annual trustees’ report as required by 20-9-213.

(c) Whenever the trustees of a district impose a levy pursuant to this subsection (3) during the current school fiscal year, they shall budget for the proceeds of the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to 20-9-525(3) in the district’s building reserve fund budget. Any expenditures of the funds must be made in accordance with the financial administration provisions of this title for a budgeted fund.

(d) When a tax levy pursuant to this subsection (3) is included as a revenue item on the final building reserve fund budget, the county superintendent shall report the levy requirement to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values and a levy on the district must be made by the county commissioners in accordance with 20-9-142.

(e) A subfund in the building reserve fund must be created for the deposit of proceeds from the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to 20-9-525(3).

(f) If the imposition of 10 mills pursuant to subsection (3)(a) is estimated by the trustees to generate an amount less than the maximum levy revenue specified in subsection (3)(a), the trustees may deposit additional funds from any lawfully available revenue source and may transfer additional funds from any lawfully available fund of the district to the subfund provided for in subsection (3)(a), up to the difference between the revenue estimated to be raised by the imposition of 10 mills and the maximum levy revenue specified in subsection (3)(a). The district’s local effort for purposes of calculating its eligibility for state school major maintenance aid pursuant to 20-9-525 consists of the combined total of funds raised from the imposition of 10 mills and additional funds raised from deposits and transfers in compliance with this subsection (3)(f).

(4) (a) A voted levy may be imposed and a subfund must be created with the approval of the qualified electors of the district to provide funding for transition costs incurred when the trustees:

- (i) open a new school under the provisions of Title 20, chapter 6;
- (ii) close a school;
- (iii) replace a school building;

(iv) ~~consolidate~~ *reorganize* with or annex another district under the provisions of Title 20, chapter 6; or

(v) receive approval from voters to expand an elementary district into a K-12 district pursuant to 20-6-326.

(b) Except as provided in subsection (4)(c), the total amount the trustees may submit to the electorate for transition costs may not exceed the number of years specified in the proposition times the greater of 5% of the district's maximum general fund budget for the current year or \$250 per ANB for the current year. The duration of the levy for transition costs may not exceed 6 years.

(c) If the levy for transition costs is for ~~consolidation~~ *reorganization under 20-6-423 or annexation under 20-6-422*:

(i) the limitation on the amount levied is calculated using the ANB and the maximum general fund budget for the districts that are being combined; and

(ii) the proposition must be submitted to the qualified electors in the combined district.

(d) The levy for transition costs may not be considered as outstanding indebtedness for the purpose of calculating the limitation in 20-9-406.

(5) (a) A subfund in the building reserve fund must be created for:

(i) the funds transferred to the building reserve fund for school safety and security pursuant to 20-9-236; and

(ii) funds generated by a voter-approved levy for school and student safety and security pursuant to subsection (5)(b) of this section.

(b) A voted levy may be imposed with the approval of the qualified electors of the district to provide funding for improvements to school and student safety and security that meet any of the criteria set forth in 20-9-236(1)(a) through (1)(e). A voted levy for school and student safety and security may not be considered as outstanding indebtedness for the purpose of calculating the limitation in 20-9-406. The election for a voted levy for school and student safety and security must be conducted in accordance with the school election laws of this title, and the electors qualified to vote in the election must be qualified under the provisions of 20-20-301. The ballot for a building reserve proposition must be substantially in compliance with 15-10-425."

Section 16. Effective date. [This act] is effective July 1, 2025.

Approved May 5, 2025

CHAPTER NO. 467

[HB 611]

AN ACT REVISING THE SALARY OF THE STATE AUDITOR; CLARIFYING THAT THE STATE AUDITOR IS ALSO THE EX OFFICIO COMMISSIONER OF INSURANCE AND SECURITIES; AMENDING SECTION 2-16-405, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-16-405, MCA, is amended to read:

"2-16-405. Salaries of certain elected state officials. (1) The salaries paid to the following elected officials are determined as provided in subsection (2):

(a) governor;

(b) lieutenant governor;

(c) attorney general;

(d) state auditor, *ex officio commissioner of insurance and securities*;

- (e) superintendent of public instruction;
- (f) public service commission presiding officer;
- (g) public service commissioners, other than presiding officer;
- (h) secretary of state;
- (i) clerk of the supreme court.

(2) Before June 30 of each even-numbered year, the department of administration shall conduct a salary survey of executive branch officials with similar titles to the Montana officials listed in subsection (1) for the states of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the salary for the Montana official in determining the average salary for the officials with similar titles. If the average salary is greater than the salary for the official in Montana, then beginning July 1 of the year following the year in which the survey is conducted, the average salary is the new salary for the official."

Section 2. Applicability. [This act] applies to the state auditor beginning January 1, 2028.

Approved May 5, 2025

CHAPTER NO. 468

[HB 665]

AN ACT PROVIDING THAT CERTAIN VOLUNTEER OFFICERS OF A SMALL NONPROFIT CORPORATION ARE NOT INDIVIDUALLY LIABLE FOR THE FAILURE OF THE SMALL NONPROFIT CORPORATION TO WITHHOLD TAXES AND FILE CERTAIN STATEMENTS; LIMITING THE EXEMPTION FROM INDIVIDUAL LIABILITY TO 12 MONTHS; PROVIDING A DEFINITION; AND AMENDING SECTION 15-30-2503, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-30-2503, MCA, is amended to read:

"15-30-2503. Employer liable for withholding taxes and statements. (1) Except as provided in 15-30-2513 and subsection (7) of this section, each employer is liable for the payments required by 15-30-2504, the amounts required to be deducted and withheld under this part, and the annual statements required by 15-30-2506 and 15-30-2507. The payments required by 15-30-2504 and the amounts required to be deducted and withheld, plus interest due, are a tax. With respect to the tax, the employer is the taxpayer.

(2) The officer of a corporation whose responsibility it is to collect, truthfully account for, and pay to the state the amounts withheld from the corporation's employees and who fails to pay the withholdings is liable to the state for the amounts withheld and the penalty and interest due on the amounts.

(3) (a) Each officer of the corporation is individually liable along with the corporation for filing statements to the extent that the officer has access to the requisite records and for unpaid taxes, penalties, and interest upon a determination that the officer:

(i) possessed the responsibility to file statements and pay taxes on behalf of the corporation; and

(ii) possessed the responsibility on behalf of the corporation for directing the filing of tax statements or the payment of other corporate obligations and exercised that responsibility, resulting in the corporation's failure to file statements required by this part or pay taxes due as required by this part.

(b) In determining which corporate officer is liable, the department is not limited to considering the elements set forth in subsection (3)(a) to establish individual liability and may consider any other available information.

(4) In the case of a corporate bankruptcy, the liability of the individual remains unaffected by the discharge of penalty and interest against the corporation. The individual remains liable for any statements and the amount of taxes, penalties, and interest unpaid by the corporation.

(5) For the purpose of determining liability for the filing of statements and the remittance of taxes, penalties, and interest owed under this part:

(a) each partner of a partnership is jointly and severally liable, along with the partnership, for any statements, taxes, penalties, and interest due while a partner;

(b) each member of a limited liability company that is treated as a partnership or as a corporation for income tax purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member;

(c) the member of a single-member limited liability company that is disregarded for income tax purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member; and

(d) each manager of a manager-managed limited liability company is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a manager.

(6) If the employer fails to deduct and withhold the amounts specified in 15-30-2502 and the tax against which the deducted and withheld amounts would have been credited is paid, the amounts required to be deducted and withheld may not be collected from the employer.

(7) (a) *Subject to subsection (7)(b), each officer or director of a small nonprofit corporation is exempt from the provisions of this section imposing individual liability.*

(b) *The exemption from individual liability in subsection (7)(a) does not apply if:*

(i) *the officer or director receives monetary compensation or wages for services to the small nonprofit corporation. For the purposes of this subsection (7)(b)(i), the term "compensation" does not include the reasonable reimbursement of expenses.*

(ii) *the small nonprofit corporation is out of compliance with the provisions this section for more than 12 months with outstanding unpaid taxes, penalties, and interest; or*

(iii) *the officer or director is involved in fraud, embezzlement, or intentional misconduct.*

(8) *As used in this section, the term "small nonprofit corporation" has the same meaning as nonprofit corporation provided in 27-1-732, except that the term does not include a corporation or organization that employs more than 10 paid employees at any given time during the calendar year."*

Approved May 5, 2025

CHAPTER NO. 469

[HB 672]

AN ACT GENERALLY REVISING RELOCATION OF UTILITIES LAWS;
GRANTING THE DEPARTMENT OF TRANSPORTATION RULEMAKING
AUTHORITY TO ADDRESS THE TIMELINESS AND ACCURACY OF UTILITY

AND NONUTILITY RELOCATIONS AND INSTALLATIONS; PROVIDING TIMELINES; PROVIDING FOR A REDUCTION IN REIMBURSEMENT FOR RELOCATION, DISMANTLING, AND REMOVAL WHEN A UTILITY OR NONUTILITY FACILITY IS NOT RELOCATED IN A TIMELY MANNER; PROVIDING LIMITED LIABILITY TO THE DEPARTMENT FOR REMOVAL; AMENDING SECTIONS 60-4-402 AND 60-4-403, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 60-4-402, MCA, is amended to read:

“60-4-402. Occupancy and relocation of utility facilities – rules.

(1) The department shall adopt reasonable rules governing right-of-way occupancy by a utility for the following:

(a) installation, construction, maintenance, repair, or system upgrade of all utilities on commission-designated highway systems or state highways;

(b) except as provided in 60-4-403~~(2) and (3)~~, reimbursement to a utility for the costs of installation, construction, maintenance, repair, renewal, or relocation of facilities; and

(c) issuance of an occupancy permit or, in the case of a facility not within the scope of Title 60, chapter 4, part 4, an encroachment permit.

(2) The rules must provide for right-of-way occupancy and relocation of publicly owned water and sewer facilities. The rules must ensure that the nonhighway use of the right-of-way does not affect the department's ability to maintain and operate the highway in a safe manner.

(3) The permitting provisions of this section do not apply to existing utility facilities or existing facilities not within the scope of Title 60, chapter 4, part 4, lawfully occupying the highway right-of-way on October 1, 2019.”

Section 2. Section 60-4-403, MCA, is amended to read:

“60-4-403. Relocation – costs – rulemaking. (1) Except as *otherwise* provided in ~~subsections (2) and (3)~~ *this section*, 75% of all costs of relocation, dismantling, and removal must be paid by the department as a cost of commission-designated highway systems construction.

(2) The department shall pay for the entire cost of relocating a publicly owned water or sewer facility with 500 or fewer service connectors under the following conditions:

(a) the facility has had 500 or fewer subscribers during the entire year before the letting of the project contract; and

(b) the relocation is the result of state highway or commission-designated highway system construction.

(3) The department shall pay for 85% of all costs of relocating a publicly owned water or sewer facility with more than 500 but fewer than 1,000 service connectors, subject to the following conditions:

(a) the facility had more than 500 but fewer than 1,000 subscribers during the entire year before the letting of the project contract; and

(b) the relocation is the result of state highway or commission-designated highway system construction.

(4) (a) *The department shall give a preliminary notice to a utility whose facility the department has determined must be relocated due to a planned highway project.*

(b) *The department may incrementally reduce to 0% the amount of its participation in the cost of relocating a facility that is not relocated in a reasonable time following the preliminary notice.*

(c) *The incremental loss of cost participation may not be imposed until at least 90 days after giving the preliminary notice.*

(d) The first 90 days of a preliminary notice period for a utility may not run simultaneously with any other notice period required or allowed in this section.

(5) The department may remove a facility or nonutility facility:

(a) whenever the department provides reasonable written notice to a utility or the owner of a nonutility facility that occupies a right-of-way of a commission-designated highway system or a state highway where a project is planned and the utility or owner of the nonutility fails to move its facility or nonutility facility to accommodate the project; or

(b) if the utility or nonutility facility was not installed or relocated in accordance with a utility permit.

(6) (a) The department may adopt rules under this section to define, address, or otherwise establish what constitutes a preliminary notice, preliminary notice period, reasonable written notice, a reasonable time, accuracy of facility and nonutility facility relocations, compliance with utility permits, the incremental loss of cost participation, and any other matter reasonably related to the relocation or removal of a facility or nonutility facility.

(b) Prior to publishing a rule proposal notice in relation to the rulemaking authority granted under this section, the department shall consult with the transportation interim committee established in 5-5-233, representatives of utility companies and cooperatives, telecommunications and broadband companies and cooperatives, cable television companies, highway construction contractors, and any other entities deemed appropriate by the department.

(7) (a) Except for the department's or its contractors' own willful misconduct, gross negligence, or violations of 69-4-523, the department and its contractors may not be held liable for a removal carried out in compliance with this section.

(b) A claim related to a loss of service interruption may not be pursued, directly or indirectly, against the department or its contractors in relation to a removal carried out in compliance with this section.

(8) Subsections (4) through (7) pertain only to highway projects that are to be delivered using the design-bid-build project delivery method."

Section 3. Effective date. [This act] is effective January 1, 2026.

Approved May 5, 2025

CHAPTER NO. 470

[HB 679]

AN ACT REVISING PROVISIONS ON THE USE OF STATE-OWNED VEHICLES; EXEMPTING CERTAIN EMPLOYEES OF THE DIVISION OF CRIMINAL INVESTIGATION OF THE DEPARTMENT OF JUSTICE FROM RESTRICTIONS ON COMMUTING FROM AN EMPLOYEE'S RESIDENCE TO A WORKSITE; AMENDING SECTION 2-17-425, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-17-425, MCA, is amended to read:

"2-17-425. Limit on use of state vehicle to commute to worksite – definitions. (1) Except as provided in subsection (2), a state-owned vehicle may not be used by a state agency employee to commute from the employee's residence to the employee's worksite.

(2) (a) The department director may authorize an exception to subsection (1) if the commute from an employee's residence to the employee's worksite is less than 30 miles, the employee is required to be on call for quick response to an emergency that threatens life or property and on-call duty is a specifically

identified duty in the employee's position description, and employees in the position have frequently responded to emergency calls in the past 6 months.

(b) Any exception authorized pursuant to subsection (2)(a) and the rationale for the exception must be documented in a memorandum or letter signed by the employee's department director and kept on file with the agency head. A copy of the letter or memorandum must be sent to the governor.

(c) This section does not apply:

(i) to the psychiatrist employed by the department of corrections and assigned to the Montana state prison;

(ii) when the vehicle is, in effect, the employee's worksite; or

(iii) when 24-hour use of a state-owned vehicle is specifically authorized by law for an elected or appointed state official and use of the vehicle is considered part of the official's compensation package; or

(iv) to an employee of the division of criminal investigation of the department of justice in the position of fire marshal or assigned to work as an agent in the areas of narcotics or major crimes who is subject to call-outs during nonscheduled hours of employment for the protection of life or property.

(3) Using a state-owned vehicle to commute between the employee's residence and a worksite that is more than 30 miles from the employee's residence is not permitted under any circumstance unless that use is authorized by the employee's department director pursuant to rules adopted under 2-17-424, the rationale for the exception is documented in a memorandum or letter signed by the employee's department director and kept on file with the agency head, and a copy of the letter or memorandum is sent to the governor.

(4) As used in this section, "state agency" or "agency" means any office, board, commission, department, or other entity of the executive, judicial, or legislative branch of state government, including the university system."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 5, 2025

CHAPTER NO. 471

[HB 687]

AN ACT REVISING THE AGE OF EXPANDED MEDICAID PARTICIPANTS WHO ARE REQUIRED TO PARTICIPATE IN COMMUNITY ENGAGEMENT ACTIVITIES; AND AMENDING SECTION 53-6-1308, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-6-1308, MCA, is amended to read:

"53-6-1308. (Temporary) Community engagement requirements – countable activities – exemptions – self-attestation. (1) Except as provided in subsections (3) through (5), an individual receiving coverage under this part shall participate in 80 hours of community engagement activities each month if the individual is at least 19 years of age but no more than ~~55~~ 62 years of age.

(2) Time spent in one or more of the following activities may be counted toward the monthly requirement for community engagement:

(a) employment;

(b) work readiness or workforce training activities;

(c) secondary, postsecondary, or vocational education;

(d) substance abuse education or substance use disorder treatment;

(e) other work or community engagement activities that promote work or work readiness or advance the health purpose of the medicaid program;

(f) a community service or volunteer opportunity; or

(g) any other activity required by the centers for medicare and medicaid services for the purpose of obtaining necessary waivers under this part.

(3) A program participant is exempt from the requirements of this section if the participant is:

(a) medically frail as defined in 42 CFR 440.315;

(b) blind or disabled;

(c) pregnant;

(d) experiencing an acute medical condition requiring immediate medical treatment;

(e) mentally or physically unable to work;

(f) a primary caregiver for a person who is unable to provide self-care;

(g) a foster parent;

(h) a full-time student in a secondary school;

(i) a student enrolled in the equivalent of at least six credits in a postsecondary or vocational institution;

(j) participating in or exempt from the work requirements of the temporary assistance for needy families program or the supplemental nutrition assistance program;

(k) under supervision of the department of corrections, a county jail, or another entity as directed by a court, the department of corrections, or the board of pardons and parole;

(l) experiencing chronic homelessness;

(m) a victim of domestic violence as defined by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 601, et seq.;

(n) living in an area with a high-poverty designation;

(o) a member of an entity subject to the fee provided for in 15-30-2660(3); or

(p) otherwise exempt under federal law.

(4) A program participant is exempt from the requirements of this section if the department determines that the participant's income exceeds an amount equal to the average of 80 hours per month multiplied by the minimum wage.

(5) A program participant is exempt from the requirements of this section in any reporting period in which the participant:

(a) is hospitalized or caring for an immediate family member who has been hospitalized;

(b) has a documented serious illness or incapacity or is caring for an immediate family member with a documented serious illness or incapacity; or

(c) is impacted by a catastrophic event or hardship as defined by the department by rule that prevents the participant from complying with the community engagement requirements of this section.

(6) The department may determine, through use of available administrative data, that a program participant:

(a) meets the community engagement requirements of this section; or

(b) is exempt from meeting the community engagement requirements. (Terminates June 30, 2025, on occurrence of contingency--sec. 48, Ch. 415, L. 2019.)"

Approved May 5, 2025

CHAPTER NO. 472

[HB 719]

AN ACT REVISING VOTING LAWS RELATED TO AN ELECTOR'S DATE OF BIRTH; REQUIRING AN ELECTOR TO PROVIDE THEIR DATE ON BIRTH WHEN REGISTERING TO VOTE; REQUIRING ABSENTEE ELECTORS TO PROVIDE THEIR DATE OF BIRTH ON THE SIGNATURE ENVELOPE WHEN RETURNING AN ABSENTEE BALLOT; REQUIRING THE ELECTION ADMINISTRATOR TO VERIFY AN ELECTOR'S DATE OF BIRTH BEFORE COUNTING THE ELECTOR'S ABSENTEE BALLOT; AND AMENDING SECTIONS 13-2-110, 13-13-201, 13-13-213, 13-13-232, 13-13-241, 13-13-245, 13-13-246, 13-15-201, 13-17-212, 13-19-106, 13-19-301, 13-19-304, AND 13-19-312, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-2-110, MCA, is amended to read:

"13-2-110. Application for voter registration – sufficiency and verification of information – identifiers assigned for voting purposes.

(1) An individual may apply for voter registration in person or by mail, postage paid, by completing and signing the standard application form for voter registration provided for in 13-1-210 and providing the application to the election administrator in the county in which the elector resides.

(2) Each application for voter registration must be accepted and processed as provided in rules adopted under 13-2-109.

(3) *An applicant for voter registration shall provide the applicant's date of birth.*

~~(3)~~(4) Except as provided in ~~subsection (4)~~ *subsection (5)*, an applicant for voter registration shall *also* provide the applicant's:

(a) Montana driver's license number;

(b) Montana state identification card number issued pursuant to 61-12-501; or

(c) the last four digits of the applicant's social security number.

~~(4)~~(5) (a) If an applicant is unable to provide information in accordance with ~~subsection (3)~~ *subsection (4)*, the applicant shall provide as an alternative form of identification:

(i) a military identification card, a tribal photo identification card, a United States passport, or a Montana concealed carry permit; or

(ii) (A) any other form of photo identification, including but not limited to a school district or postsecondary education photo identification with the individual's name; and

(B) a current utility bill, bank statement, paycheck, government check, or other government document that shows the individual's name and current address.

(b) The alternative form of identification must be:

(i) an original version presented to the election administrator if the applicant is applying in person; or

(ii) a readable copy of any of the required documents, which must be enclosed with the application, if the applicant is applying by mail.

~~(5)~~(6) (a) If information provided on an application for voter registration is sufficient to be accepted and processed and is verified pursuant to rules adopted under 13-2-109, the election administrator shall register the elector as a legally registered elector.

(b) If information provided on an application for voter registration was sufficient to be accepted but the applicant failed to provide the information required in ~~subsection (3) or (4)~~ *subsection (3) and subsections (4) or (5)* or if the information provided was incorrect or insufficient to verify the individual's identity or eligibility to vote, the election administrator shall register the applicant as a provisionally registered elector.

(6)(7) Each applicant for voter registration must be notified of the elector's registration status pursuant to rules adopted under 13-2-109.

(7)(8) The secretary of state shall assign to each elector whose application was accepted a unique identification number for voting purposes and shall establish a statewide uniform method to allow the secretary of state and local election officials to distinguish legally registered electors from provisionally registered electors.

(8)(9) The provisions of this section may not be interpreted to conflict with voter registration accomplished under 13-2-221, 13-21-221, and 61-5-107 and as provided for in federal law."

Section 2. Section 13-13-201, MCA, is amended to read:

"13-13-201. Voting by absentee ballot – procedures. (1) A legally registered elector or provisionally registered elector is entitled to vote by absentee ballot as provided for in this part.

(2) The elector may vote absentee by:

(a) marking the ballot in the manner specified;

(b) placing the marked ballot in the secrecy envelope, free of any identifying marks;

(c) placing the secrecy envelope containing one ballot for each election being held in the signature envelope;

(d) executing the affirmation printed on the signature envelope; ~~and~~

(e) providing the elector's date of birth on the signature envelope; and

~~(e)(f)~~ returning the signature envelope with all appropriate enclosures by regular mail, postage paid, or by delivering it to:

(i) the election office;

(ii) a polling place within the elector's county;

(iii) pursuant to 13-13-229, the absentee election board or an authorized election official; or

(iv) in a mail ballot election held pursuant to Title 13, chapter 19, a designated place of deposit within the elector's county.

(3) Except as provided in 13-21-206 and 13-21-226, in order for the ballot to be counted, each elector shall return it in a manner that ensures the ballot is received prior to 8 p.m. on election day.

(4) A provisionally registered elector may also enclose in the outer signature envelope a copy of the elector's photo identification showing the elector's name. The photo identification may be but is not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification. If the provisionally registered elector does not enclose a photo identification, the elector may enclose a copy of a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector's name and current address."

Section 3. Section 13-13-213, MCA, is amended to read:

"13-13-213. Transmission of application to election administrator – delivery of ballot. (1) All absentee ballot application forms must be addressed to the appropriate county election office.

(2) Except as provided in subsection (4), the elector may mail the signed application directly to the election administrator or deliver the application

in person to the election administrator. An agent designated pursuant to 13-1-116 or a third party may collect the elector's application and forward it to the election administrator.

(3) (a) The election administrator shall compare the signature *and date of birth* on the application with the applicant's signature *and date of birth* on the registration form or the agent's signature on the agent designation form. If convinced that the individual making the application is the same as the one whose name appears on the registration form or the agent designation form, the election administrator shall deliver the ballot to the elector in person or as otherwise provided in 13-13-214, subject to 13-13-205.

(b) If no signature ~~is~~ *or date of birth are* provided or the election administrator is not convinced that the individual signing the application is the same person whose name appears on the registration form or agent designation form, the election administrator shall notify the elector as provided in 13-13-245.

(4) In lieu of the requirement provided in subsection (2), an elector who requests an absentee ballot pursuant to 13-13-212(2) may return the application to the absentee election board or an authorized election official. Upon receipt of the application, the absentee election board or authorized election official shall examine the signatures *and date of birth* on the application and a copy of the voting registration form or agent designation form to be provided by the election administrator. If the absentee election board or an authorized election official believes that the applicant is the same person as the one whose name appears on the registration form or agent designation form, the absentee election board or authorized election official shall provide a ballot to the elector when the ballot is available pursuant to 13-13-205."

Section 4. Section 13-13-232, MCA, is amended to read:

"13-13-232. Delivery of ballots and secrecy envelopes to election judges – ballots to be rejected. (1) If an absentee ballot is received prior to delivery of the official ballots to the election judges, the election administrator shall process it according to 13-13-241 and then, unless the early preparation process in ~~13-13-241(7)~~ *13-13-241(8)* was followed, deliver the unopened secrecy envelope to the judges at the same time that the ballots are delivered.

(2) If an absentee ballot is received after the official ballots are delivered to the election judges but prior to the close of the polls, the election administrator shall process it according to 13-13-241 and shall then immediately deliver the unopened secrecy envelope to the judges.

(3) If the election administrator receives an absentee ballot for which an application or request was not made or received as required by this part, the election administrator shall endorse upon the elector's envelope the date and exact time of receipt and the words "to be rejected". Absentee ballots endorsed in this manner must be handled in the same manner as provided in 13-15-108(1)."

Section 5. Section 13-13-241, MCA, is amended to read:

"13-13-241. Examination of absentee ballot signature envelopes – deposit of absentee and unvoted ballots – rulemaking. (1) (a) Upon receipt of each absentee ballot signature envelope, an election administrator shall compare the signature of the elector or elector's agent on the absentee ballot request or on the elector's voter registration form with the signature on the signature envelope *and shall compare the date of birth of the elector from the elector's absentee ballot request form or from the elector's voter registration form with the date of birth listed of the elector on the signature envelope.*

(b) If the elector is legally registered, ~~and~~ the signature on the signature envelope matches the signature on the absentee ballot application or on the elector's voter registration form, *and the date of birth on the signature envelope*

matches the date of birth of the elector on the elector's absentee ballot request form or from the elector's voter registration form, the election administrator or an election judge shall handle the ballot as a regular ballot.

(c) (i) If the elector is provisionally registered and *both* the signature on the signature envelope matches the signature on the absentee ballot application or on the elector's voter registration form *and the date of birth on the signature envelope matches the date of birth of the elector on the elector's absentee ballot request form or from the elector's voter registration form*, the election administrator or an election judge shall open the outer signature envelope and determine whether the elector's voter identification and eligibility information, if enclosed pursuant to 13-13-201, is sufficient pursuant to rules adopted under 13-2-109 to legally register the elector.

(ii) If the voter identification and eligibility information is sufficient to legally register the elector, the ballot must be handled as a regular ballot.

(iii) If voter identification or eligibility information was not enclosed or the information enclosed is insufficient to legally register the elector, the ballot must be handled as a provisional ballot under 13-15-107.

(2) If a voted absentee ballot has not been placed in a secrecy envelope, the election administrator shall place the ballot in a secrecy envelope without examining the ballot.

(3) In a primary election, if unvoted party ballots are returned by a voter, they must be separated and handled pursuant to 13-1-303 and 13-12-202.

(4) If an elector's ballot is to be handled as a provisional ballot, the election administrator shall notify the absentee elector as provided in 13-13-245.

(5) If the signature on the absentee ballot signature envelope does not match the signature on the absentee ballot request form or on the elector's voter registration form or if there is no signature on the absentee ballot signature envelope, the election administrator shall notify the elector as provided in 13-13-245.

(6) If the date of birth on the signature envelope is missing or does not match the date of birth of the elector on the elector's absentee ballot request form or on the elector's voter registration form, the election administrator shall notify the elector as provided in 13-13-245.

(6)(7) If at any point there is a question concerning the validity of a particular ballot, the question must be resolved as provided in 13-13-245.

(7)(8) (a) Except as provided in subsection ~~(8)~~ (9), after receiving an absentee ballot secrecy envelope and if the validity of the ballot is confirmed pursuant to 13-13-245, then no sooner than 3 business days before election day, the election official may open the secrecy envelope and place the ballot in the proper, secured ballot box until tabulation occurs. Automatic tabulation using a vote-counting machine may not begin sooner than 1 day before election day. Tabulation using a manual count may not begin until election day.

(b) An election official may not conduct the process described in subsection ~~(7)(a)~~ ~~(8)(a)~~ on a Saturday or a Sunday.

(c) Ballot preparation as described in this subsection ~~(7)~~ (8) is open to the public. Tabulation is open to the public as provided in 13-15-101.

(d) Access to an electronic system containing early tabulation results is limited to the election administrator and the election administrator's designee. Results may not be released except as provided in 13-35-241.

~~(8)~~(9) For a county with fewer than 8,000 registered electors or fewer than 5,000 absentee electors at the close of regular registration, the ballot preparation process described in subsection ~~(7)(a)~~ ~~(8)(a)~~ may not begin sooner than 1 business day before election day.

(9)(10) The election administrator shall safely and securely keep the absentee ballots in the election administrator's office until delivered by the election administrator to the election judges.

(10)(11) The secretary of state shall develop administrative rules to establish the process and procedures to be used during the early preparation of ballots to ensure the security of the ballots and the secrecy of the votes during the early preparation period. The rules must include but are not limited to:

- (a) the allowable distance from the observers to the judges and ballots;
- (b) the security in the observation area;
- (c) secrecy of votes during the preparation of the ballots; and
- (d) security of the secured ballot boxes in storage until tabulation procedures begin."

Section 6. Section 13-13-245, MCA, is amended to read:

"13-13-245. Notice to elector -- opportunity to resolve questions.

(1) As soon as possible after receipt of an elector's absentee ballot application or signature envelope, the election administrator shall give notice to the elector by the most expedient method available if the election administrator determines that:

- (a) the elector's ballot is to be handled as a provisional ballot;
- (b) the validity of the ballot is in question; **or**
- (c) the election administrator has not received or is unable to verify the elector's or agent's signature under 13-13-213 or 13-13-241; **or**
- (d) *the elector's date of birth on the signature envelope is missing or does not match the date of birth of the elector on the elector's absentee ballot request form or on the elector's voter registration form under 13-13-241.*

(2) The election administrator shall inform the elector that, prior to 8 p.m. on election day, the elector may:

(a) by mail, facsimile, electronic means, or in person, resolve the issue that resulted in the ballot being handled as a provisional ballot, confirm the validity of the ballot, or verify the elector's or agent's signature or provide a signature, after proof of identification, by affirming that the signature is in fact the elector's, by completing a new registration form containing the elector's current signature, or by providing a new agent designation form; or

(b) if necessary, request and receive a replacement ballot pursuant to 13-13-204.

(3) The ballot of an elector who fails to provide information pursuant to subsection (2) must be handled as a provisional ballot pursuant to 13-15-107.

(4) (a) If an absentee ballot is returned as undeliverable, the election administrator shall attempt to contact the elector by the most expedient means available to determine the reason for the return and mail a confirmation notice if the elector cannot be contacted otherwise. The notice must be sent by forwardable mail with a postage-paid, return-addressed reply.

(b) If the confirmation notice is returned to the election administrator, after the election the election administrator shall place the elector on the inactive list provided for in 13-2-220 until the elector reactivates the elector's registration pursuant to 13-2-222.

(c) (i) During the election, the elector must be provided with:

(A) the elector's undeliverable ballot upon notification in writing by the elector of the elector's correct mailing address; or

(B) a replacement ballot if a request has been made pursuant to 13-13-204.

(ii) An elector who votes in the election pursuant to this subsection (4)(c) may not be placed on the inactive list pursuant to the procedures provided in subsection (4)(b)."

Section 7. Section 13-13-246, MCA, is amended to read:

“13-13-246. Electronic ballots for disabled persons – procedures – definition – rulemaking. (1) (a) Upon a written or an in-person request from a legally registered or provisionally registered elector with a disability, an election administrator shall provide the elector with an electronic ballot.

(b) The request may be made by electronic mail.

(2) (a) After receiving a request and verifying that the elector is legally registered or provisionally registered, the election administrator shall provide to the elector an electronic ballot, instructions for completing the ballot, a secrecy envelope or page, and a transmittal cover sheet that includes an elector affirmation. If the elector is provisionally registered, the election administrator shall include instructions about what information the elector shall include with the voted ballot pursuant to 13-13-201(4).

(b) The election administrator shall maintain an official log of all ballots provided pursuant to this section.

(c) After voting the ballot, the elector shall print the ballot, place it in the secrecy envelope or under the secrecy page, sign the affirmation, including by fingerprint, mark, or agent pursuant to 13-1-116, or provide a driver's license number or the last four digits of the elector's social security number. If the elector is provisionally registered, the elector shall also return sufficient voter identification and eligibility information to allow the election administrator to determine pursuant to rules adopted under 13-2-109 that the elector is legally registered. The elector shall return the voted ballot and affirmation in a manner that ensures both are received by 8 p.m. on election day.

(d) An elector may return the voted ballot and affirmation in the regular mail provided they are received at the office of the election administrator by 8 p.m. on election day. A valid ballot must be counted if it is received at the office of the election administrator by 8 p.m. on election day.

(3) After receiving a ballot and secrecy envelope and if the validity of the ballot is confirmed pursuant to 13-13-241, the election administrator shall log the receipt of the ballot and process it as required in Title 13, chapter 13. If the ballot is rejected, the election administrator shall notify the elector pursuant to 13-13-245.

(4) (a) When performing the procedures prescribed in ~~13-13-241(7)~~ *13-13-247(8)* to open secrecy envelopes, an election official shall place in a secure absentee ballot envelope any ballot returned pursuant to this section that requires transcription. No sooner than the time provided in ~~13-13-241(7)~~ *13-13-247(8)*, the election administrator shall transcribe the returned ballots using the procedure prescribed below and in accordance with any rules established by the secretary of state to ensure the security of the ballots and the secrecy of the votes.

(b) No fewer than three election officials shall participate in the transcription process to transfer the elector's vote from the received ballot to the standard ballot used in the precinct.

(c) A number must be written on the secrecy envelope or page that contains the original voted electronic ballot, and the same number must be placed on the transcribed ballot and in the official log.

(d) The election officials who transcribed the original voted electronic ballot shall sign the log next to the number.

(e) No one participating in the ballot transmission process may reveal any information about the ballot.

(5) The secretary of state shall adopt rules to implement and administer this section, including rules to ensure the security of the ballots and the secrecy of the votes.”

Section 8. Section 13-15-201, MCA, is amended to read:

“13-15-201. Preparation for count – absentee ballot count procedures. (1) Subject to 13-10-311, to prepare for a count of ballots, the counting board or, if appointed, the absentee counting board shall take ballots out of the box to determine whether each ballot is single.

(2) The board shall count all ballots to ensure that the total number of ballots corresponds with the total number of names in the pollbook.

(3) If the board cannot reconcile the total number of ballots with the pollbook, the board shall submit to the election administrator a written report stating how many ballots were missing or in excess and any reason of which they are aware for the discrepancy. Each judge on the board shall sign the report.

(4) A ballot that is not marked as official is void and may not be counted unless all judges on the board agree that the marking is missing because of an error by election officials, in which case the ballot must be marked “unmarked by error” on the back and must be initialed by all judges.

(5) If two or more ballots are folded or stuck together to look like a single ballot, they must be laid aside until the count is complete. The counting board shall compare the count with the pollbooks, and if a majority believes that the ballots folded together were marked by one elector, the ballots must be rejected and handled as provided in 13-15-108, otherwise they must be counted.

(6) Only valid absentee ballots may be counted in an election conducted under this chapter.

(7) For the purpose of this chapter, a marked absentee ballot is valid only if:

(a) the elector’s signature on the affirmation *and the elector’s date of birth* on the signature envelope is verified pursuant to 13-13-241; and

(b) it is received before 8 p.m. on election day, except as provided in 13-21-206 and 13-21-226.

(8) (a) A ballot is invalid if:

(i) problems with the ballot have not been resolved pursuant to 13-13-245;

(ii) any identifying marks are placed on the ballot by the elector, which must result in the immediate rejection of the ballot without notice to the elector; or

(iii) except as provided in subsection (8)(b), more than one ballot is enclosed in a single signature or secrecy envelope.

(b) The provisions of subsection (8)(a)(iii) do not apply if:

(i) there are multiple elections being held at the same time and the envelope contains only one ballot for each election; or

(ii) the signature envelope contains ballots from the same household, each ballot is in its own secrecy envelope, and the signature envelope contains a valid signature for each elector who has returned a ballot.”

Section 9. Section 13-17-212, MCA, is amended to read:

“13-17-212. Performance testing and certification of voting systems prior to election. (1) No more than 30 days prior to an election in which a voting system is used, the election administrator shall publicly test and certify that the system is performing properly. An election administrator shall test all central count vote tabulation machines to be used if automatic tabulation begins pursuant to ~~13-13-241(7)(a)~~ *13-13-241(8)(a)* the day before the election. In accordance with subsection (3), the secretary of state shall adopt rules to meet the requirements of this subsection.

(2) The secretary of state shall ensure that at least 10% of each type of voting system in the state has been randomly tested and certified at least once every calendar year.

(3) The provisions of this section must be implemented according to rules adopted by the secretary of state pursuant to 13-17-211.”

Section 10. Section 13-19-106, MCA, is amended to read:

“13-19-106. General requirements for mail ballot election. A mail ballot election must be conducted substantially as follows:

(1) Subject to 13-12-202, official mail ballots must be prepared and all other initial procedures followed as provided by law, except that mail ballots must be paper ballots and are not required to have stubs.

(2) An official ballot must be mailed to every qualified elector of the political subdivision conducting the election.

(3) Each signature envelope must contain a form that is the same as the form for absentee ballot signature envelopes and that is prescribed by the secretary of state for the elector to verify the accuracy of the elector's address or notify the election administrator of the elector's correct mailing address and to return the corrected address with the voted ballot in the manner provided by 13-19-306.

(4) The elector shall mark the ballot and place it in a secrecy envelope.

(5) (a) The elector shall then place the secrecy envelope containing the elector's ballot in a signature envelope and mail it or deliver it in person to a place of deposit designated by the election administrator.

(b) Except as provided in 13-21-206 and 13-21-226, the voted ballot must be received before 8 p.m. on election day.

(6) Election officials shall first qualify the voted ballot by examining the signature envelope to determine whether it is submitted by a qualified elector who has not previously voted in the election.

(7) If the voted ballot qualifies and is otherwise valid, officials shall then open the signature envelope and remove the secrecy envelope, which must be deposited unopened in an official ballot box pursuant to the timeline specified in ~~13-13-241(7)~~ 13-13-241(8).

(8) Except as provided in 13-19-312, voted ballots must be counted and canvassed as provided in Title 13, chapter 15.”

Section 11. Section 13-19-301, MCA, is amended to read:

“13-19-301. Voting mail ballots. (1) Upon receipt of a mailed ballot, the elector may vote by:

(a) marking the ballot in the manner specified;

(b) placing the marked ballot in the secrecy envelope, free of any identifying marks;

(c) placing the secrecy envelope containing one ballot for each election being held in the signature envelope;

(d) executing the affirmation printed on the signature envelope; ~~and~~

(e) *providing the elector's date of birth on the signature envelope; and*

~~(e)(f)~~ returning the signature envelope with all appropriate enclosures, as provided in 13-19-306.

(2) For the purpose of this chapter, an official ballot is voted when the marked ballot is received at a place of deposit.

(3) A legally registered or provisionally registered elector with a disability may receive and vote a ballot using procedures established in 13-13-246.”

Section 12. Section 13-19-304, MCA, is amended to read:

“13-19-304. Voting by nonregistered electors. (1) For any election being conducted under this chapter by a political subdivision that allows individuals to vote who are not registered electors, the individual may vote by appearing in person at the election administrator's office or by providing materials by mail, facsimile, or electronic means and demonstrating that the individual possesses the qualifications required for voting.

(2) An individual complying with subsection (1) before official ballots are available may provide a form to the election administrator containing the

signature of the individual or the individual's agent designated pursuant to 13-1-116 and the address to which the ballot is to be mailed. The signature *and date of birth* provided must be used for verification when the mail ballot is returned.

(3) An individual complying with subsection (1) after official ballots are available and before 8 p.m. on election day must be permitted to vote at that time."

Section 13. Section 13-19-312, MCA, is amended to read:

"13-19-312. Preparation for count and counting procedure. (1) The preparation for counting ballots must be as provided in 13-15-201.

(2) Except as provided in subsection (3), after the close of voting on election day, the counting board appointed pursuant to 13-15-112 shall:

(a) open the official ballot boxes;

(b) if the process authorized under ~~13-13-241(7)~~ 13-13-241(8) was not used, open each secrecy envelope, removing the voted ballot; and

(c) proceed to count the votes as provided in Title 13, chapter 15.

(3) The election administrator may begin the procedures described in subsection (2) no sooner than 1 day before election day if the election administrator complies with the procedures described in 13-15-207(3)."

Approved May 5, 2025

CHAPTER NO. 473

[HB 726]

AN ACT GENERALLY REVISING SURETY BAIL BOND INSURANCE; REVISING QUALIFICATIONS FOR SURETY BAIL BOND INSURANCE; REVISING SURETY BAIL BOND INSURANCE QUALIFICATIONS AND CONTINUING EDUCATION; PROVIDING FOR DISCLOSURE OF FEES; AND AMENDING SECTIONS 33-17-1601 AND 33-17-1602, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-17-1601, MCA, is amended to read:

"33-17-1601. Special qualifications for surety bail bond insurance license. (1) Before approving an application for a surety bail bond insurance license, the commissioner shall verify that the individual:

(a) is a natural person at least ~~21~~ 18 years of age;

(b) is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(c) *maintains a fixed place of business or is a full-time agent within the state;*

~~(c)(d)~~ (d) has obtained a high school diploma, a general equivalency diploma or equivalent document, or an equivalent education as determined by the commissioner;

~~(d)(e)~~ (e) has complied with the requirements of 33-17-211; and

~~(e)(f)~~ (f) has successfully completed the training required in 33-17-1602.

(2) An individual may not receive, renew, or hold a surety bail bond license if the individual:

(a) has been convicted of a felony in this state or of any offense committed in another state that would be a felony if committed in this state; or

(b) has been convicted of an offense involving dishonesty, a breach of trust, violence, threatened violence, or the unlawful use, sale, or possession of a controlled substance."

Section 2. Section 33-17-1602, MCA, is amended to read:

“33-17-1602. Surety bail bond insurance license – basic course of training – temporary license. (1) Except as otherwise provided in this section, an applicant for a surety bail bond insurance license shall satisfactorily complete a basic course of training for bail enforcement agents that is approved by the commissioner.

(2) *Before approving an application for a surety bail bond insurance license, the commissioner shall verify that the individual:*

(a) *holds a high school diploma, general equivalency diploma, or equivalent; and*

(b) *has no felony convictions or offenses involving dishonesty, violence, or controlled substances.*

(3) *Applicants shall complete a 16-hour basic training course that includes instruction in:*

(a) *constitutional law and civil liability;*

(b) *rights of individuals in custody;*

(c) *use of force guidelines;*

(d) *procedures for arresting and surrendering defendants;*

(e) *handling individuals with mental health or substance use challenges;*

(f) *defensive tactics;*

(g) *bail bond ethics; and*

(h) *report writing and form completion.*

(4) *Once every 2 years, licensees shall complete continuing education that includes high-quality relevant instruction for:*

(a) *1 hour on updates to state and federal laws affecting the bail industry; and*

(b) *4 hours of approved credits on general bail industry knowledge or trends that is provided by a recognized state or national bail industry association or any other approved provider.*

(5) (a) *The commissioner may issue a temporary license valid for up to 12 months, allowing applicants to operate under supervision while completing training requirements. Supervision must be provided by a licensed surety bail bond agent who:*

(i) *has been licensed and actively in business in Montana for at least 5 consecutive years;*

(ii) *is a resident of the state; and*

(iii) *is in good standing with the commissioner of insurance, with no disciplinary actions or violations within the past 5 years.*

(b) *Renewal of the temporary license is prohibited to ensure timely completion of all training and licensing requirements.*

(6) *Existing licensed surety bail bond agents are exempt from initial training requirements but shall participate in the biennial continuing education program.*

(2) *The basic course of training must consist of at least 40 hours of training that includes instruction in:*

(a) *the following areas of the law:*

(i) *constitutional law;*

(ii) *procedures for arresting a defendant and surrendering a defendant into custody;*

(iii) *civil liability;*

(iv) *the civil rights of a person who is detained in custody;*

(v) *the use of force; and*

(vi) *the history and principles of bail;*

(b) *procedures for field operations, including without limitation:*

~~(i) handling a person with mental illness or a person who is under the influence of alcohol or a controlled substance; and~~

~~(ii) the care and custody of a prisoner;~~

~~(c) the skills required of bail enforcement agents, including without limitation:~~

~~(i) writing reports and completing forms;~~

~~(ii) methods of arrest;~~

~~(iii) nonlethal weapons;~~

~~(iv) the safe retention of weapons;~~

~~(v) qualifications for the use of firearms; and~~

~~(vi) defensive tactics; and~~

~~(d) the following subjects:~~

~~(i) first aid used in emergencies; and~~

~~(ii) cardiopulmonary resuscitation.~~

(3)(7) (a) In lieu of completing the basic course of training required by subsection (1), an applicant may submit proof to the commissioner that the applicant has completed a course of training required by a municipal, state, or federal law enforcement agency or a branch of the armed forces to carry out the duties of a peace officer.

(b) *Proof of on-the-job training in the basic course of training areas is sufficient for the commissioner to find that granting a surety bail bond insurance license is in the public interest. The commissioner's decision whether to grant or deny a waiver under this subsection (7) is not subject to the provisions provided in Title 33, chapter 1, part 7.*

(4)(8) An applicant for a surety bail bond insurance license shall complete the training required by this section within 12 months after the date the applicant is employed by a licensed surety bail bond agent. The commissioner may issue a temporary license to an applicant who has not completed the training if the applicant is otherwise qualified to be issued a license as a surety bail bond agent. The temporary license:

(a) authorizes the applicant to act as a surety bail bond agent while employed by a licensed surety bail bond agent;

(b) is valid for up to 12 months; and

(c) may not be renewed."

Section 3. Surety bail bond premium – fees or interest. A surety bail bond producer that collects any fees or interest other than the minimum premium shall disclose the fees or interest at the time the surety bail bond insurance contract is executed. All fees and interest must be acknowledged by all parties to the contract.

Section 4. Codification instruction. [Section 3] is intended to be codified as an integral part of Title 33, chapter 26, part 1, and the provisions of Title 33, chapter 26, part 1, apply to [section 3].

Approved May 5, 2025

CHAPTER NO. 474

[HB 740]

AN ACT GENERALLY REVISING LAWS RELATING TO PHARMACIES, PHARMACY BENEFIT MANAGERS, AND OTHER ENTITIES; PROVIDING LAWS RELATING TO THE RECOUPMENT OF FUNDS; PROVIDING DEFINITIONS; REVISING LAWS RELATED TO MAXIMUM ALLOWABLE COST OR THE REFERENCE PRICE LIST; PROHIBITING CERTAIN FEES;

AMENDING SECTIONS 33-2-2005, 33-22-170, 33-22-171, 33-22-172, 33-22-175, AND 33-22-177, MCA; AND PROVIDING AN APPLICABILITY SECTION AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-2-2005, MCA, is amended to read:

“33-2-2005. Prohibitions – recoupment – payment – interest. An entity conducting an audit may not:

(1) include dispensing fees unless a prescription was not actually dispensed, the prescriber denied authorization, the prescription dispensed was a dispensing error by the pharmacy, or the identified overpayment is based solely on an extra dispensing fee;

(2) recoup funds for prescription clerical or recordkeeping errors, including typographical errors, scrivener's errors, and computer errors, in a required document or record unless the error results in actual financial harm to the entity or to a consumer;

(3) collect any funds, charge-backs, or penalties until the audit and all appeals are final unless the entity is alleging fraud or other intentional or willful misrepresentation that is evidenced by the review of claims data, statements, physical review, or other investigative methods;

(4) use extrapolation or other statistical expansion techniques in calculating the amount of any recoupment or penalty;

(5) pay the agent or employee who conducted the audit based on a percentage of the amount recovered; **or**

(6) charge interest during the audit period; **or**

(7) *recoup funds on the basis of the timing of purchases of dispensed medication, but instead shall permit a pharmacy to use drug purchase records without limitation of date or source to validate the dispensing of legend or narcotic drugs so long as the purchase of the drug was done in accordance with state or federal law.”*

Section 2. Section 33-22-170, MCA, is amended to read:

“33-22-170. Definitions. As used in 33-22-170 through 33-22-177 and 33-22-180, the following definitions apply:

(1) “Contract pharmacy” means a pharmacy operating under contract with a federally certified health entity to provide dispensing services to the federally certified health entity.

(2) *“Effective rate contracting” means an agreement or arrangement between a pharmacy or a contracting agent acting on behalf of a pharmacy and a pharmacy benefit manager or third-party payer that establishes a reimbursement rate for pharmaceuticals based on the effective rate of payment rather than on a predetermined fixed price or a fixed discount percentage. An effective rate of payment involves any calculation for which pharmacy reimbursement is based on an aggregation of more than one claim, rather than on a per-claim basis.*

(2)(3) “Federally certified health entity” means a 340B covered entity as described in 42 U.S.C. 256b(a)(4).

(4) *“Independent pharmacy” means a pharmacy as defined in 37-7-101 that:*

(a) *is licensed with the board of pharmacy as a pharmacy;*

(b) *is located in the state; and*

(c) *is not owned or operated by or a subsidiary or affiliate of:*

(i) *a for-profit entity with more than 10 pharmacy locations nationwide;*

(ii) *a pharmacy benefit manager; or*

(iii) *a publicly traded entity.*

(3)(5) “Maximum allowable cost list” means the list of drugs used by a pharmacy benefit manager that sets the maximum cost on which reimbursement to a network pharmacy or pharmacist is based.

(4)(6) “Pharmacist” means a person licensed by the state to engage in the practice of pharmacy pursuant to Title 37, chapter 7.

(5)(7) “Pharmacy” means an established location, either physical or electronic, that is licensed by the board of pharmacy pursuant to Title 37, chapter 7, and that has entered into a network contract with a pharmacy benefit manager, health insurance issuer, or plan sponsor.

(6)(8) “Pharmacy benefit manager” means a person who contracts with pharmacies on behalf of a health insurance issuer, third-party administrator, or plan sponsor to process claims for prescription drugs, provide retail network management for pharmacies or pharmacists, pay pharmacies or pharmacists for prescription drugs, or provide other prescription drug or device services.

(7)(9) “Pharmacy performance measurement entity” means:

(a) the electronic quality improvement platform for plans and pharmacies;
or

(b) an entity approved by the board of pharmacy provided for in 2-15-1733 as a nationally recognized and unbiased entity that assists pharmacies in improving performance measures.

(8)(10) “Pharmacy services administrative organization” means an entity that acts as a contracting agent or provides contracting and other administrative services to pharmacies to assist them in their interactions with third-party payers and pharmacy benefit managers.

(9)(11) “Prescription drug” means any drug that is required by federal law or regulation to be dispensed only by a prescription subject to section 353(b) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq.

(10)(12) “Prescription drug order” has the meaning provided in 37-7-101.

(11)(13) “Reference pricing” means a calculation for the price of a pharmaceutical that uses the most current nationally recognized reference price or amount to set the reimbursement for prescription drugs and other products, supplies, and services covered by a network contract between a plan sponsor, health insurance issuer, or pharmacy benefit manager and a pharmacy or pharmacist.”

Section 3. Section 33-22-171, MCA, is amended to read:

“33-22-171. Maximum allowable cost list – limitations on drugs.

Before a pharmacy benefit manager places or continues a drug on a maximum allowable cost list, the drug:

(1) must be listed as “A” or “B” rated in the most recent version of the United States food and drug administration’s approved drug products with therapeutic equivalence evaluations or have an “NR” or “NA” rating by a nationally recognized reference;

(2) must be available for purchase by pharmacies in this state from national or regional wholesalers; and

(3) may not be obsolete, *temporarily unavailable*, or *listed on a drug shortage list*.”

Section 4. Section 33-22-172, MCA, is amended to read:

“33-22-172. Maximum allowable cost or reference price list – price formulation, updating, and disclosure – exceptions. (1) At the time of entering into a contract with a pharmacy or a pharmacy services administrative organization and subsequently upon request, a plan sponsor, health insurance issuer, or pharmacy benefit manager shall provide the pharmacy or pharmacy services administrative organization with the sources used to determine the

pricing for the maximum allowable cost list or the reference used for reference pricing.

(2) If using a maximum allowable cost list, a plan sponsor, health insurance issuer, or pharmacy benefit manager shall:

(a) review and update the price information for each drug on the maximum allowable cost list at least once every 10 calendar days to reflect any modification of pricing, *ensuring that maximum allowable cost increases are processed and updated on the same schedule as decreases*;

(b) establish a process for eliminating products from the maximum allowable cost list or modifying the prices in the maximum allowable cost list in a timely manner to remain consistent with pricing changes and product availability in the marketplace; and

(c) provide a process for each pharmacy to readily access the maximum allowable cost list specific to the pharmacy in a searchable and usable format.

(3) If using reference pricing, a plan sponsor, health insurance issuer, or pharmacy benefit manager shall:

(a) review and update ~~no less than every 10 business days~~ *not less than every 10 business days* the price information for each drug, product, supply, or service for which reference pricing is used, *updating reference pricing on the same date of the change in the referenced source*; and

(b) provide a process for each pharmacy to readily access the reference pricing specific to the plan sponsor or the health insurance issuer's plan.

(4) A plan sponsor, health insurance issuer, or pharmacy benefit manager may not:

(a) prohibit a pharmacist from discussing reimbursement criteria with a covered person;

(b) penalize a pharmacy or a pharmacist for disclosing the information described in subsection (4)(a) to a covered person or for selling a more affordable alternative to a covered person; or

(c) require a pharmacy to charge or collect a copayment from a covered person that exceeds the total charges submitted by the network pharmacy.

(5)(a) *A plan sponsor, pharmacy benefits manager, or third-party payer shall ensure that reimbursement to independent pharmacies for each drug dispensed is not less than the national average drug acquisition cost plus a professional dispensing fee that is not less than the minimum specified in this subsection (5). The national average drug acquisition cost price must be the price published in effect for the day the drug claim was billed by the pharmacy.*

(b) *In the event that a particular drug does not have a published national average drug acquisition price, the reimbursement to independent pharmacies must be:*

(i) *for generic drugs, 100% of published wholesale acquisition costs plus a professional dispensing fee that is not less than the minimum specified in this subsection (5); and*

(ii) *for brand-name drugs, 100% of wholesale acquisition costs plus a professional dispensing fee that is not less than the minimum specified in this subsection (5).*

(c) *The minimum professional dispensing fee for independent pharmacies is \$15, subject to an annual increase. On January 1 of each year, a plan sponsor, pharmacy benefits manager, or third-party payer shall increase the amount of the minimum professional dispensing fee for independent pharmacies for inflation. Inflation is measured by the annual percentage increase, if any, in the consumer price index, U.S. city average, all urban consumers, for all items, as published by the bureau of labor statistics of the United States department of labor.*

(d) This subsection (5) does not apply to reimbursements to pharmacies under Title 39, chapter 71.”

Section 5. Section 33-22-175, MCA, is amended to read:

“33-22-175. Allowable and prohibited fees on pharmacies. (1) A pharmacy benefit manager, ~~or a third-party payer, or a discount card processor~~ may not directly or indirectly charge or hold a pharmacy responsible for a fee, ~~related to a claim including but not limited to the following:~~

- (a) *a fee for submission of a claim;*
- (b) *any other claim-related fee;*
- (c) *a fee for enrollment or participation in a retail pharmacy network;*
- (d) *a credentialing or recredentialing fee;*
- (e) *a fee for the development or management of claims processing services or claims payment services; or*
- (f) *a fee on remittance advice or a fee that is retroactive if the fee is not apparent at the time the claim is processed;*
- (b) ~~if the fee is not reported on the remittance advice of an adjudicated claim; or~~

(c) ~~after the initial claim is adjudicated.~~

~~(2) A pharmacy benefit manager or third-party payer may collect a performance-based fee from a pharmacy only if the pharmacy fails to meet the criteria established by a pharmacy performance measurement entity. The fee may be applied only to the professional dispensing fee outlined in the contract with the pharmacy and may not be imposed on the cost of goods sold by a pharmacy.~~

(3) Only criteria established by a pharmacy performance measurement entity may be used to measure a pharmacy’s performance for the purposes of this section.

(4) A pharmacy benefits manager or third-party payer may not make or allow any reduction in payment for pharmacy services by a pharmacy benefits manager or third-party payer or directly or indirectly reduce a payment for a pharmacy service under a reconciliation process to an effective rate of reimbursement, including generic effective rates, brand effective rates, direct and indirect remuneration fees, or any other reduction or aggregate reduction of payments.

(5) All reimbursements to pharmacies must be made through direct bank transfers, checks, or other payment methods that do not incur processing fees for the pharmacy. Checks must have a 180-day expiration to deposit.”

Section 6. Section 33-22-177, MCA, is amended to read:

“33-22-177. Rights of pharmacies. (1) A pharmacy benefit manager or third-party payer may not prohibit a pharmacist or pharmacy from:

- (a) participating in a class-action lawsuit;
- (b) disclosing to the plan sponsor or to the patient information regarding the adjudicated reimbursement paid to the pharmacy if the pharmacist or pharmacy complies with the requirements of the federal Health Insurance Portability and Accountability Act of 1996, 29 U.S.C. 1181 et seq.;
- (c) providing relevant information to a patient about the patient’s prescription drug order, including but not limited to the cost and clinical efficacy of a more affordable alternative drug if one is available;
- (d) mailing or delivering a prescription drug to a patient as an ancillary service of a pharmacy if the practice is not prohibited under Title 37, chapter 7; or

(e) charging a shipping and handling fee to a patient who has asked that a prescription drug be mailed or delivered if the practice is not prohibited under Title 37, chapter 7.

(2) A pharmacy benefit manager or third-party payer may not:

(a) require pharmacy accreditation standards or recertification requirements inconsistent with, more stringent than, or in addition to federal and state requirements for licensure as a pharmacy in this state; or

(b) *exclude a pharmacy from the pharmacy benefit manager's or third-party payer's network based solely on the pharmacy being newly opened or open less than a defined amount of time, or because a license or location transfer occurs, unless there is a pending investigation for fraud, waste, or abuse.*

(3) A pharmacist or pharmacy that belongs to a pharmacy services administrative organization may receive a copy of a contract the pharmacy services administrative organization entered into with a pharmacy benefit manager or third-party payer on the pharmacy's or pharmacist's behalf.

(4) A pharmacy benefit manager or third-party payer shall provide a pharmacy or pharmacist with the processor control number, bank identification number, and group number for each pharmacy network established or administered by a pharmacy benefit manager or third-party payer to enable the pharmacy to make an informed contracting decision.

(5) (a) A pharmacy benefit manager shall:

(i) offer a pharmacy or a pharmacy services administrative organization an opportunity to renew an existing contract every 3 years, at a minimum; ~~and~~

(ii) allow a pharmacy or a pharmacy services administrative organization to terminate a contract upon a 90-day notice to the pharmacy benefit manager;

(iii) *ensure pharmacy credentialing applications are processed and that pharmacies are added to applicable networks within 45 calendar days after all needed documentation has been submitted by the pharmacy or the pharmacy services administrative organization.*

(iv) *ensure pharmacy ownership changes are processed and that the pharmacy can process prescriptions for applicable networks within 30 calendar days after all needed documentation has been submitted by the pharmacy or the pharmacy services administrative organization.*

(b) An addendum or amendment to an existing contract between a pharmacy benefit manager and a pharmacy or a pharmacy services administrative organization is effective only upon signing of the addendum or amendment by both parties.

(6) A pharmacy or a pharmacy services administrative organization has a private right of action to enforce provisions of 33-22-175 through 33-22-177.

(7) *Effective rate contracting is prohibited in all agreements between pharmacies or contracting agents acting on behalf of a pharmacy and a pharmacy benefit manager or third-party payer. A pharmacy benefit manager or third-party payer may not enter into any contract that establishes payment for services or medications based on an effective rate of reimbursement. A pharmacy benefit manager or third-party payer found to be in violation of this section is subject to penalties, including but not limited to fines, revocation of licensure, or other disciplinary actions.*

(8) A pharmacy benefit manager may not:

(a) reimburse a network pharmacy an amount less than the contract price between the pharmacy benefit manager and the insurer, third-party payor, or the pharmacy services management organization the pharmacy benefit manager has contracted with; or

(b) require or coerce a patient to use a pharmacy that is owned by or affiliated with the pharmacy benefit manager.

(9) A pharmacy benefit manager shall apply the same utilization review, fees, copayments or cost-sharing, days allowance, and other conditions on a covered person when the covered person obtains a prescription drug from

a pharmacy that is included in the pharmacy benefit manager's pharmacy network, including mail-order pharmacies and the pharmacy benefit manager's owned, affiliated, or preferred pharmacies.

(10) If a covered person is using a mail-order pharmacy, the pharmacy benefit manager shall allow for dispensing at local network pharmacies under the following circumstances to ensure patient access to prescription drugs:

(a) if the prescription is delayed more than 1 day after the expected delivery date provided by the mail-order pharmacy; or

(b) if the prescription drug arrives in an unusable condition as determined by the patient.

(11) A pharmacy benefit manager may not require the usage of mail order for a patient residing in an area where the U.S. postal service does not provide service delivery to a physical address."

Section 7. Applicability. [This act] applies to conduct occurring on or after October 1, 2025.

Section 8. Termination. [This act] terminates June 30, 2029.

Approved May 5, 2025

CHAPTER NO. 475

[HB 808]

AN ACT PROVIDING FOR THE MONTANA BROWNFIELDS REVITALIZATION ACT; PROVIDING DEFINITIONS; AUTHORIZING THE MONTANA BROWNFIELDS FUND; PROVIDING FOR BROWNFIELD REDEVELOPMENT VIABILITY AND ELIGIBILITY; PROVIDING RULEMAKING AUTHORITY; ELIMINATING THE MONTANA PETROLEUM BROWNFIELDS REVITALIZATION ACT; PROVIDING FOR A TRANSFER OF GENERAL FUNDS; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502 AND 75-11-309, MCA; AND REPEALING SECTIONS 75-11-401, 75-11-402, 75-11-403, 75-11-407, 75-11-408, AND 75-11-409, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 8] may be cited as the "Montana Brownfields Revitalization Act".

Section 2. Findings and intent – purposes. The legislature finds that:

(1) real properties exist across the state where the stigma of hazardous substance and petroleum contamination hinders the development or best use of the property. These properties may be eligible for brownfields funding.

(2) the assessment and cleanup of hazardous substance and petroleum brownfields sites should be encouraged and facilitated to reduce threats to human health and the environment, prepare properties for reuse and redevelopment, and return property to the local tax rolls;

(3) the petroleum tank release cleanup fund established in 75-11-313 does not immediately address all petroleum tank release sites in Montana;

(4) not all sites impacted by hazardous substances are assessed or cleaned up by the Comprehensive Environmental Cleanup and Responsibility Act in chapter 10, part 7, of this title or the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, et seq.

Section 3. Definitions. (1) The definitions used in [sections 1 through 8] are for the purpose of determining the eligibility of sites to receive and

expend federal brownfields funding received by a grant recipient from the United States environmental protection agency under the federal Brownfields Revitalization and Environmental Restoration Act of 2001, Title II of Public Law 107-118.

(2) As used in [sections 1 through 8] unless the context clearly indicates otherwise, the following definitions apply:

(a) "Brownfield site" means an abandoned, idle, blighted, or underutilized property, for which the expansion, redevelopment, or reuse of may be complicated by the presence or potential presence of hazardous substances, pollutants, or contaminants.

(b) "Brownfields redevelopment" means any work or undertaking by a person to acquire a brownfield site and to raze, demolish, remove, reconstruct, renovate, or rehabilitate the site or existing buildings, structures, or other improvements at the site for the purpose of promoting the use of the site for residential, commercial, industrial, or other purposes. The term does not include construction of new facilities on the site for any purpose other than environmental remediation activities.

(c) "Department" means the department of environmental quality provided for in 2-15-3501.

(d) "Eligible entity" means a city, town, county, consolidated city-county, tribal government, economic development organization, nonprofit organization, or state agency that has received federal brownfields funding from the environmental protection agency or other state agency.

(e) "Environmental remediation activities" means:

(i) investigation, analysis, and monitoring of a brownfields site to determine the existence and extent of actual or potential environmental pollution;

(ii) redevelopment planning; or

(iii) abatement, removal, or containment of environmental pollution at a brownfields site.

(f) "Hazardous substance" has the same meaning as provided in 75-10-602.

(g) "Petroleum" or "petroleum product" has the same meaning as provided in 75-11-302.

(h) "Petroleum tank release site" means a site where there has been a release from a petroleum storage tank and assessment or remediation, or both, are being pursued in accordance with Title 75, chapter 11, part 3.

(i) "Reasonable steps" means, as appropriate, stopping continuing releases, preventing threatened future releases, or preventing or limiting human, environmental, or natural resource exposure to previous petroleum, petroleum product, or hazardous substance releases. The term may include limiting access to the property, monitoring known contaminants, and complying with state, local, or both state and local requirements.

(j) "Responsible party" means:

(i) a person responsible for conducting the assessment, investigation, and cleanup at a brownfield site as determined through:

(A) a judgment rendered in a court of law or an administrative order;

(B) an enforcement action by federal authorities or the department; or

(C) a citizen suit, contribution action, or other third-party claim brought against the current owner of a brownfield site; or

(ii) a current owner of a brownfield site who:

(A) dispensed or disposed of petroleum or petroleum product or hazardous substance contamination at the site;

(B) exacerbated existing contamination at the site;

(C) owned the site when any dispensing or disposal of petroleum or hazardous substances by others took place; or

(D) failed to take reasonable steps with regard to contamination at the site.

(k) “Viable responsible party” means a responsible party determined by the department to have the financial capability to conduct environmental remediation activities at a brownfield site.

Section 4. Viability at a petroleum release site. (1) For the purpose of determining the viability of a responsible party at a brownfield site where petroleum contamination is the predominant contaminant, the department shall presume that:

(a) ongoing businesses or companies and government entities are viable unless there is information suggesting that the presumption is not appropriate, and the department determines the information is sufficient to rebut the presumption in a particular case; and

(b) individuals and defunct or insolvent companies are not viable unless there is information suggesting that the presumption is not appropriate, and the department determines the information is sufficient to rebut the presumption in a particular case.

(2) The department may not determine that a responsible party is viable based solely on the fact that the owner or operator of a petroleum tank release site is eligible to be reimbursed by the petroleum tank release compensation board established in 2-15-2108 from the petroleum tank release cleanup fund established in 75-11-313.

(3) It is an applicant’s responsibility to provide the department with sufficient financial information about a responsible party identified in a petroleum brownfields site eligibility application to determine whether the responsible party is a viable responsible party.

Section 5. Eligibility for brownfields funding – determination and limitations. (1) Before an eligible entity may expend federal brownfields funds at a brownfield site, either the United States environmental protection agency or the department shall make a written determination that:

(a) there is no viable responsible party for the contamination as determined pursuant to [section 4];

(b) the brownfield site will not be assessed, investigated, or cleaned up by a responsible party; and

(c) the brownfield site is not subject to an order under section 9003(h) of the federal Solid Waste Disposal Act, 42 U.S.C. 6991b(h), or Title 75, chapter 11.

(2) After the department or the United States environmental protection agency determines that a brownfield site is eligible for federal brownfields funding, the department shall encourage and may not limit the use of an eligible entity’s federal brownfields funding at the site even if the site owner or operator, as defined in 75-11-302, is eligible for funding from the petroleum tank release cleanup fund established in 75-11-313.

(3) The department may not limit the use of money from the petroleum tank release cleanup fund established in 75-11-313 when used as a commitment to a federal brownfields loan to an eligible entity for remediation of petroleum at a brownfield site.

(4) (a) Except as provided in subsection (4)(b), a determination made by the department or the United States environmental protection agency that a brownfield site is eligible for federal brownfields funding does not limit or alter the responsible party’s, owner’s, or operator’s responsibility to assess or remediate:

(i) a petroleum or hazardous substance release in accordance with Title 75, chapter 11; or

(ii) a liability at a facility subject to the Comprehensive Environmental Cleanup and Responsibility Act in accordance with Title 75, chapter 10.

(b) The department shall approve a comprehensive remediation plan and allow for the use of federal brownfields funding at the brownfield site if

the department determines that an eligible entity has proposed to conduct timely and comprehensive environmental remediation activities using federal brownfields funding at a brownfield site that:

(i) is eligible for brownfield funding as determined by the department or U.S. environmental protection agency;

(ii) proposes a remediation plan of environmental remediation activities that meets or exceeds department remediation standards; and

(iii) meets or exceeds financial commitments required by the petroleum tank release compensation board pursuant to Title 75, chapter 11, part 3.

Section 6. Site access. Upon presentation of the proper credentials, an authorized representative of the department may enter any building, property, premises, place, or facility where brownfield redevelopment or environmental remediation activities are being performed or have been performed for the purpose of making an inspection to ensure compliance by any person pursuant to the provisions of [sections 1 through 8] or rules promulgated pursuant to [sections 1 through 8].

Section 7. Rulemaking authority. The department may adopt rules to implement the provisions of [sections 1 through 8] and to:

(1) prescribe the form and content of applications for assistance from the brownfields site redevelopment fund;

(2) apply eligibility criteria for awarding assistance from the brownfields site redevelopment fund;

(3) establish additional terms and conditions for assistance from the brownfields site redevelopment fund;

(4) establish maximum amounts for an individual award of assistance from the brownfields site redevelopment fund, if considered appropriate and necessary for the successful administration of the program;

(5) ensure compliance of the program with the provisions of the Small Business Liability Relief and Brownfields Revitalization Act, Public Law 107-118, and rules promulgated under the act unless these matters are specifically governed by [sections 8]; and

(6) maintain the financial integrity of the program.

Section 8. Brownfields site redevelopment fund – statutory appropriation. (1) It is the intent of the brownfield program to strengthen communities throughout this state and to promote economic development by encouraging environmental remediation activities and brownfields redevelopment of properties blighted by real or perceived contamination.

(2) The brownfields site redevelopment fund is an account in the state special revenue fund for assessment and cleanup of brownfield sites.

(3) The money in the account:

(a) may be deposited through an allocation of money.

(b) must be deposited through money received by the department in the form of legislative appropriations, reimbursements, gifts, or donations from any source that is intended to be used for the purposes of this account.

(4) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department to be used only for:

(a) investigation and cleanup of petroleum or hazardous substances on an eligible site or facility for the purposes of brownfields redevelopment;

(b) demolition of structures, buildings, or other improvements located on an eligible site or facility;

(c) interior contaminant abatement activities on an eligible site or facility for asbestos abatement activities, as described in 75-2-502, or lead-based paint abatement activities as described in 40 CFR, part 745, subpart E; or

(d) removal of underground tank systems.

(5) Any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account.

(6) Interest income on the account must be deposited and remain in the account.

Section 9. Section 17-7-502, MCA, is amended to read:

“17-7-502. Statutory appropriations – definition – requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-316; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121; 15-1-142; 15-1-143; 15-1-218; 15-1-2302; 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-128; 15-70-131; 15-70-132; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-6-214; 17-7-133; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-3-369; 20-7-1709; 20-8-107; 20-9-250; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-4-1506; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; [section 8]; 75-26-308; 76-13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-2-203; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and any costs or fees associated with issuing, paying, securing, redeeming, or defeasing all bonds, notes, or other obligations, as due in the ordinary course or when earlier called for redemption or defeased, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates

contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 1, 2, 3, Ch. 139, L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30, 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; pursuant to sec. 1, Ch. 20, L. 2023, sec. 2, Ch. 20, L. 2023, and sec. 3, Ch. 20, L. 2023, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2029; pursuant to sec. 9, Ch. 44, L. 2023, the inclusion of 15-1-142 terminates December 31, 2025; pursuant to sec. 10, Ch. 47, L. 2023, the inclusion of 15-1-2302 terminates June 30, 2025; pursuant to sec. 2, Ch. 374, L. 2023, the inclusion of 10-3-802 terminates June 30, 2031; pursuant to sec. 12, Ch. 558, L. 2023, the inclusion of 20-9-250 terminates December 31, 2029; pursuant to sec. 4, Ch. 621, L. 2023, the inclusion of 22-1-327 terminates July 1, 2029; pursuant to sec. 24, Ch. 722, L. 2023, the inclusion of 17-7-133 terminates June 30, 2027; pursuant to sec. 10, Ch. 758, L. 2023, the inclusion of 44-4-1506 terminates June 30, 2027; and pursuant to sec. 10, Ch. 764, L. 2023, the inclusion of 15-1-143 terminates December 31, 2025.)”

Section 10. Section 75-11-309, MCA, is amended to read:

“75-11-309. Procedures for reimbursement of eligible costs – corrective action plans. (1) An owner or operator seeking reimbursement for eligible costs and the department shall comply with the following procedures:

(a) If an owner or operator discovers or is provided evidence that a release may have occurred from the owner’s or operator’s petroleum storage tank, the owner or operator shall immediately notify the department of the release and conduct an initial response to the release in accordance with state and federal laws and rules to protect the public health and safety and the environment.

(b) Except for a tank for which a permit is sought under 75-11-308(1)(b)(iii) and that is closed within 120 days of discovery of the release, following discovery of the release, the petroleum storage tank must remain in compliance with applicable state and federal laws and rules that the board determines pertain to prevention and mitigation of petroleum releases.

(c) The owner or operator shall conduct a thorough investigation of the release and, subject to subsection (1)(d), report the findings to the department, and, as determined necessary by the department, prepare and submit for approval by the department a corrective action plan that conforms with state, tribal (when applicable), and federal corrective action requirements.

(d) For a release in which the costs are expected to exceed \$100,000, an owner or operator, a representative of the owner or operator, the department, the board, and board staff shall meet to discuss the response to the release. For a release in which the costs are expected to be less than \$100,000, an owner or operator, a representative of the owner or operator, the department, the board, and board staff may meet to discuss the response to the release if any party requests a meeting.

(e) (i) The department shall review the corrective action plan and forward a copy to a local government office, the board, and, when applicable, a tribal government office with jurisdiction over a corrective action for the release. The local or tribal government office and the board shall inform the department if it wants any modification of the proposed plan.

(ii) Based on its own review and comments received from a local government, a tribal government, the board, or other source, the department, subject to ~~75-11-408(4)(b)~~ [section 5(4)(b)], may approve the proposed corrective action plan, make or request the owner or operator to modify the proposed plan, or prepare its own plan for compliance by the owner or operator. A plan finally approved by the department through any process provided in this subsection (1)(d) is the approved corrective action plan.

(iii) After the department approves a corrective action plan, a local government, or a tribal government, or the board may not impose different corrective action requirements on the owner or operator.

(f) A corrective action plan prepared by the owner, operator, or department for any petroleum storage tank release may include the establishment of a petroleum mixing zone as defined in 75-11-503.

(g) The department shall notify the owner or operator of its approval of a corrective action plan and shall promptly submit a copy of the approved corrective action plan to the board.

(h) The owner or operator shall implement the corrective action plan or plans approved by the department until the release is resolved. The department may oversee the implementation of the plan, require reports and monitoring from the owner or operator, undertake inspections, and otherwise exercise its authority concerning corrective action under Title 75, chapter 10, part 7, Title 75, chapter 11, part 5, and other applicable law and rules.

(i) The owner or operator shall document in the manner required by the board all expenses incurred in preparing and implementing the corrective action plan. The owner or operator shall submit claims and substantiating documents to the board in the form and manner required by the board.

(ii) The board shall review each claim and determine if the claims are actual, reasonable, and necessary costs of responding to the release and implementing the corrective action plan.

(iii) If the board requires additional information to determine if a claimed cost is actual, reasonable, and necessary, the board may request comment from the department and the owner or operator.

(iv) If the department determines that an owner or operator is failing to properly implement a corrective action plan, it shall notify the board.

(j) The owner or operator shall document, in the manner required by the board, any payments to a third party for bodily injury or property damage caused by a release. The owner or operator shall submit claims and substantiating documents to the board in the form and manner required by the board.

(k) In addition to the documentation in subsections (1)(i) and (1)(j), when the release is claimed to have originated from a properly designed and installed double-walled tank system, the owner or operator shall document, in the manner required by the board, the following:

(i) the date that the release was discovered; and

(ii) that the originating tank was part of a properly designed and installed double-walled tank system.

(2) If an owner or operator is issued an administrative order for failure to comply with requirements imposed by or pursuant to Title 75, chapter 11, part 5, or rules adopted pursuant to Title 75, chapter 11, part 5, all reimbursement of claims submitted after the date of the order must be suspended. Upon a

written determination by the department that the owner or operator has returned to compliance with the requirements of Title 75, chapter 11, part 5, or rules adopted pursuant to Title 75, chapter 11, part 5, suspended and future claims may be reimbursed according to criteria established by the board. In establishing the criteria, the board shall consider the effect and duration of the noncompliance.

(3) The board shall review each claim received under subsections (1)(i) and (1)(j), make the determination required by this subsection, inform the owner or operator of its determination, and, as appropriate, reimburse the owner or operator from the fund. Before approving a reimbursement, the board shall affirmatively determine that:

(a) the expenses for which reimbursement is claimed:

(i) are eligible costs; and

(ii) were actually, necessarily, and reasonably incurred for the preparation or implementation of a corrective action plan approved by the department or for payments to a third party for bodily injury or property damage; and

(b) the owner or operator:

(i) is eligible for reimbursement under 75-11-308; and

(ii) has complied with this section and any rules adopted pursuant to this section. Upon a determination by the board that the owner or operator has not complied with this section or rules adopted pursuant to this section, all reimbursement of pending and future claims must be suspended. Upon a determination by the board that the owner or operator has returned to compliance with this section or rules adopted pursuant to this section, suspended and future claims may be reimbursed according to criteria established by the board. In establishing the criteria, the board shall consider the effect and duration of the noncompliance.

(4) (a) If an owner or operator disagrees with a board determination under subsection (3), the owner or operator may submit a written request for a hearing before the board.

(b) A written request for a hearing must be received by the board within 120 days after notice of the board's determination is served on the owner or operator by certified mail. The notice of determination must advise the owner or operator of the 120-day time limit for submitting a written request for a hearing to the board. Not less than 50 days or more than 60 days after the board serves the notice of determination, the board shall serve on the owner or operator a second notice by certified mail advising the owner or operator of the deadline for requesting a hearing. Service by certified mail is complete on the date shown on the certified mail receipt.

(c) If a written request is received within 120 days, the hearing must be held at a meeting of the board or as otherwise permitted under the Montana Administrative Procedure Act no later than 120 days following receipt of the request or at a time mutually agreed to by the board and the owner or operator.

(d) If a written request is not received within 120 days, the determination of the board is final.

(5) The board shall obligate money for reimbursement of eligible costs of owners and operators in the order that the costs are finally approved by the board.

(6) (a) The board may, at the request of an owner or operator, guarantee in writing the reimbursement of eligible costs that have been approved by the board but for which money is not currently available from the fund for reimbursement.

(b) The board may, at the request of an owner or operator, guarantee in writing reimbursement of eligible costs not yet approved by the board,

including estimated costs not yet incurred. A guarantee for payment under this subsection (6)(b) does not affect the order in which money in the fund is obligated under subsection (5).

(c) When considering a request for a guarantee of payment, the board may require pertinent information or documentation from the owner or operator. The board may grant or deny, in whole or in part, any request for a guarantee.”

Section 11. Repealer. The following sections of the Montana Code Annotated are repealed:

75-11-401. Short title.

75-11-402. Findings and intent -- purposes.

75-11-403. Definitions -- application.

75-11-407. Viability.

75-11-408. Brownfields site eligibility at petroleum tank release sites -- determinations and limitations.

75-11-409. Use of petroleum brownfields funding acquired by state -- limitations.

Section 12. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 13. Transfer of funds. The state treasurer shall transfer the following amounts from the general fund to the brownfields site redevelopment fund provided for in [section 8]:

Fiscal year 2026	\$200,000
Fiscal year 2027	\$200,000

Section 14. Codification instruction. [Sections 1 through 8] are intended to be codified as an integral part of Title 75, chapter 11, and the provisions of Title 75, chapter 11, apply to [sections 1 through 8].

Approved May 5, 2025

CHAPTER NO. 476

[HB 45]

AN ACT GENERALLY REVISING TELECOMMUNICATION REGULATION LAWS; ELIMINATING PUBLIC SERVICE COMMISSION RATE REGULATION; ELIMINATING THE MONTANA STATE UNIVERSAL FUND; REPEALING THE PERFORMANCE ASSURANCE PLAN STATE ACCOUNT AND THE ASSOCIATED STATUTORY APPROPRIATION; EXEMPTING INTERNET PROTOCOL-ENABLED SERVICES; AMENDING SECTIONS 15-53-129, 17-7-502, 69-3-225, 69-3-302, 69-3-305, 69-3-803, AND 69-3-805, MCA; REPEALING SECTIONS 69-3-808, 69-3-809, 69-3-810, 69-3-821, 69-3-841, 69-3-842, 69-3-843, 69-3-844, 69-3-845, 69-3-846, 69-3-870, 69-3-901, 69-3-902, 69-3-903, 69-3-904, 69-3-906, 69-3-907, AND 69-3-910, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-53-129, MCA, is amended to read:

“15-53-129. (Temporary) Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) “Call-by-call basis” means any method of charging for telecommunications services that measures the price by individual calls.

(2) (a) “Charges for mobile telecommunications services” means any charge for, or associated with, the provision of commercial mobile radio service, as

defined in 47 CFR 20.3, as in effect on June 1, 1999, or any charge for, or associated with, a service provided as an adjunct to a commercial mobile radio service that is billed to the customer by or for the customer's home service provider regardless of whether individual transmissions originate or terminate within the licensed service area of the home service provider.

(b) The term does not include one-way radio communications as included in 47 CFR 20.3, as in effect on June 1, 1999.

(3) (a) "Customer" or "purchaser" means, except as provided in subsection (3)(b), a person who acquires for consideration retail telecommunications services for use or consumption and not for resale.

(b) For purposes of mobile telecommunications services, the term means:

(i) the person or entity that contracts with the home service provider for mobile telecommunications services; or

(ii) if the end user of mobile telecommunications services is not the contracting party, the end user of the mobile telecommunications services, but only for the purpose of determining the place of primary use.

(c) The term does not include:

(i) a reseller of mobile telecommunications services; or

(ii) a serving carrier under an arrangement to serve the customer outside the home service provider's licensed service area.

(4) "Home service provider" means the facilities-based carrier or reseller that the customer contracts with for the provision of mobile telecommunications services.

(5) "Mobile telecommunications services" means commercial mobile radio service, as defined in 47 CFR 20.3, as in effect on June 1, 1999.

(6) "Place of primary use" means the street address for the premises where the customer's use of telecommunications services primarily occurs, which must be the residential street address or the primary business street address of the customer. For mobile telecommunications services, the place of primary use must be within the licensed service area of the home service provider.

(7) "Postpaid calling basis" means that telecommunications services are obtained by making a payment on a call-by-call basis, either through the use of a card or payment mechanism, such as a bank card, travel card, credit card, or debit card, or by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(8) "Private communications service" means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and other associated services that are provided in connection with the use of the channel or channels.

(9) (a) "Reseller" means a provider who purchases mobile telecommunications services from another telecommunications services provider and then resells, uses as a component part of, or integrates the purchased services into a mobile telecommunications service.

(b) The term does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider's licensed service area.

(10) (a) "Retail telecommunications" means, except as provided in subsection (10)(b), the two-way transmission of voice, image, data, or other information over wire, cable, fiber optics, microwave, radio, satellite, or similar facilities that originates or terminates in this state and is charged to a customer with a Montana service address.

(b) For mobile telecommunications services, the term means the two-way transmission of voice, image, data, or other information that originates or terminates in a single state that is charged to a Montana service address.

(c) The term includes but is not limited to local exchange, long-distance, private communications, two-way paging, wireless telecommunications, and related services, regardless of whether the services are paid for on a call-by-call basis or postpaid calling basis.

(11) (a) "Sales price" means the consideration paid for the distribution, supply, furnishing, sale, transmission, or delivery of retail telecommunications services to the end-user customer.

(b) The term does not include:

(i) an amount added to the customer's bill because of a charge made pursuant to the tax imposed by this part;

(ii) charges added to a customer's bill under 10-4-201; and 53-19-311; ~~and 69-3-844;~~

(iii) federal excise taxes or other federally imposed charges or fees collected for and remitted to a federal government entity;

(iv) a charge for a dishonored check;

(v) a finance or credit charge, penalty or charge for delayed payment, or discount for prompt payment;

(vi) a charge for construction or relocation of facilities;

(vii) charges for the installation, repair, inspection, or servicing of equipment and wiring located on customer premises;

(viii) bad debt;

(ix) a charge added by a hotel, motel, or similar facility for telecommunications services used in placing calls for guests;

(x) charges paid by inserting coins in coin-operated telecommunications devices; and

(xi) charges for telecommunications services that have been prepaid by a prepaid calling card that enables the origination of calls by using an access number or authorization code.

(12) (a) "Service address" means, except as provided in subsection (12)(b):

(i) the location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of the location to which the bill for the call is sent or the location from which the payment of the bill is received;

(ii) if the location in subsection (12)(a)(i) is not known, the origination point of the signal of the telecommunications service first identified by either the seller's telecommunications system or, if the system used to transport the signal is not that of the seller, in information received by the seller from its service provider; or

(iii) if the location in subsection (12)(a)(i) or (12)(a)(ii) is not known, the location of the customer's place of primary use.

(b) For mobile telecommunications services, the term means the location in Montana of the customer's place of primary use.

(13) "Serving carrier" means a facilities-based carrier providing mobile telecommunications services to a customer outside a home service provider's or reseller's licensed service area.

(14) "Telecommunications services provider" means a person providing retail telecommunications services. (Terminates on occurrence of contingency--sec. 8, Ch. 515, L. 2003.)

15-53-129. (Effective on occurrence of contingency) Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Customer" or "purchaser" means a person who acquires for consideration retail telecommunications services for use or consumption and not for resale.

(2) "Retail telecommunications" means the two-way transmission of voice, image, data, or other information over wire, cable, fiber optics, microwave, radio, satellite, or similar facilities that originates or terminates in this state and is billed to a customer with a Montana service address. The term includes but is not limited to local exchange, long-distance, two-way paging, wireless telephony, and related services.

(3) (a) "Sales price" means the consideration paid for the distribution, supply, furnishing, sale, transmission, or delivery of retail telecommunications services to the end-user customer.

(b) Sales price does not include:

(i) an amount added to the customer's bill because of a charge made pursuant to the tax imposed by this part;

(ii) charges added to a customer's bill under 10-4-201; *and* 53-19-311 ~~and 69-3-844~~;

(iii) federal excise taxes or other federally imposed charges or fees collected for and remitted to a federal government entity;

(iv) a charge for a dishonored check;

(v) a finance or credit charge, penalty or charge for delayed payment, or discount for prompt payment;

(vi) a charge for construction or relocation of facilities;

(vii) the installation, repair, inspection, or servicing of equipment and wiring located on customer premises;

(viii) bad debt;

(ix) a charge added by a hotel, motel, or similar facility for telecommunications services used in placing calls for guests;

(x) charges paid by inserting coins in coin-operated telecommunications devices; and

(xi) charges for telecommunications services that have been prepaid by a prepaid calling card that enables the origination of calls by using an access number or authorization code.

(4) "Service address" means:

(a) the location from where the retail telecommunications services originated or where the retail telecommunications services are received; or

(b) where there is not a defined location, the location in Montana where the statement of charges for retail telecommunications services is mailed.

(5) "Telecommunications services provider" means a person providing retail telecommunications services."

Section 2. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310;

10-3-312; 10-3-314; 10-3-316; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121; 15-1-142; 15-1-143; 15-1-218; 15-1-2302; 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-128; 15-70-131; 15-70-132; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-6-214; 17-7-133; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-3-369; 20-7-1709; 20-8-107; 20-9-250; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-4-1506; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115; 61-3-321; 61-3-415; 67-1-309; ~~69-3-870~~; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-2-203; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and any costs or fees associated with issuing, paying, securing, redeeming, or defeasing all bonds, notes, or other obligations, as due in the ordinary course or when earlier called for redemption or defeased, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 1, 2, 3, Ch. 139, L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30, 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; pursuant to sec. 1, Ch. 20, L. 2023, sec. 2, Ch. 20, L. 2023, and sec. 3, Ch. 20, L. 2023, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2029; pursuant to sec. 9, Ch. 44, L. 2023, the inclusion of 15-1-142 terminates December 31, 2025; pursuant to sec. 10, Ch. 47, L. 2023, the inclusion of 15-1-2302 terminates June 30, 2025; pursuant to sec. 2, Ch. 374, L. 2023, the inclusion of 10-3-802 terminates June 30, 2031; pursuant to sec. 12, Ch. 558, L. 2023, the inclusion of 20-9-250 terminates

December 31, 2029; pursuant to sec. 4, Ch. 621, L. 2023, the inclusion of 22-1-327 terminates July 1, 2029; pursuant to sec. 24, Ch. 722, L. 2023, the inclusion of 17-7-133 terminates June 30, 2027; pursuant to sec. 10, Ch. 758, L. 2023, the inclusion of 44-4-1506 terminates June 30, 2027; and pursuant to sec. 10, Ch. 764, L. 2023, the inclusion of 15-1-143 terminates December 31, 2025.)”

Section 3. Section 69-3-225, MCA, is amended to read:

“69-3-225. Overbilling of regulated telecommunications tariff charges – statute of limitations for recovery. (1) A person or entity alleging overbilling of tariffed telecommunications charges by a regulated telecommunications company shall file the action before the commission or a court of competent jurisdiction within 2 years of the date of overbilling.

(2) This section is intended to be consistent with limitations on actions as provided in 47 U.S.C. 415.

(3) For purposes of this section, the following definitions apply:

(a) “Overbilling” means presenting a bill to a customer of a regulated telecommunications company that includes charges that overstate the amount owed by the customer pursuant to the tariff for the service as approved by and on file with the commission.

(b) “Regulated telecommunications company” means all public utility companies that are regulated pursuant to 69-3-101(1)(f), Title 69, chapter 3, part 8, and 69-3-803 ~~(10)~~ 69-3-803(9).

(c) “Tariffed telecommunications charges” means all charges and fees for regulated services billed by a regulated telecommunications company as authorized by a tariff that has been approved by and filed with the commission.”

Section 4. Section 69-3-302, MCA, is amended to read:

“69-3-302. Changes in schedules. (1) Except as provided in 69-3-308, a change may not be made in any schedule, including schedules of joint rates, except as approved by the commission, ~~upon or on the passage of 9 months; or by operation of 69-3-907(1).~~ If the 9-month time period expires prior to commission approval of a schedule, a utility may waive the time period.

(2) Notwithstanding any provision of this title to the contrary, other than rate adjustments made pursuant to 69-3-308, the rates, tolls, or charges set forth in any schedule filed with the commission pursuant to 69-3-301 must become effective and be lawful rates, tolls, or charges for the utility service rendered 9 months after the date upon which the schedule was filed under the rules of practice and procedure for filing as adopted by the commission or upon commission approval, whichever occurs first, unless the utility waives the 9-month time period. However, if the rates, tolls, or charges become effective because of the passage of 9 months, the revenue collected is subject to rebate, plus interest at an annual rate determined by the commission, to the extent that the rates, tolls, or charges ultimately approved by the commission in its final decision produce revenue that is less than that collected under the filed schedules. In the case of an investor-owned utility, the interest rate set by the commission may not exceed the cost of equity capital as last determined by the commission.

(3) The commission may prescribe rules necessary to effectively administer this section.”

Section 5. Section 69-3-305, MCA, is amended to read:

“69-3-305. Deviations from scheduled rates, tolls, and charges.

(1) Except as provided in subsection ~~(5)(a)~~ (4)(a), a public utility may not:

(a) charge, demand, collect, or receive a greater or less compensation for a utility service performed by it within the state or for any service in connection

with a utility service than is specified in the printed schedules, including schedules of joint rates, that may at the time be in force;

(b) demand, collect, or receive a rate, toll, or charge not specified in the schedules; or

(c) grant a rebate, concession, or special privilege to a consumer or user that, directly or indirectly, has or may have the effect of changing the rates, tolls, charges, or payments.

(2) The rates, tolls, and charges named in the printed schedules are the lawful rates, tolls, and charges until the rates, tolls, and charges are changed, as provided in this chapter.

(3) The commission may order refunds or credits of rates, tolls, or charges collected in violation of this section and may order payment of interest at a reasonable rate on the refunded amount.

~~(4) The provisions of this section do not prohibit the sharing of profits or revenues with customers in conjunction with an alternative form of regulation approved under 69-3-809.~~

(5)(4) (a) A provider of regulated telecommunications service may offer, for a limited period of time, rebates, price reductions, or waivers of charges in conjunction with promotions, market trials, or other sales-related activities that are common business practices. Promotional pricing for services to end users does not require advance approval of the commission. Informational price lists must be filed with the commission on or before the date that the promotion begins.

(b) A public utility providing electricity or natural gas may offer grants and subsidized loans to install energy conservation and nonfossil forms of energy generation systems in dwellings.

(c) The commission may define the appropriate scope of promotions, rebates, market trials, and grants and subsidized loans, either by rule or in response to complaints. The commission may determine whether a particular sales activity or grant or subsidized loan program under this subsection (4) is unfairly discriminatory or is not cost-effective. Costs and expenses incurred or revenue foregone with respect to sales activities and grant and subsidized loan programs that the commission determines are unfairly discriminatory or not cost-effective are the responsibility of the provider's shareholders in rates set by the commission.

~~(6)(5)~~ A public utility violating the provisions of this section is subject to the penalty prescribed in 69-3-206. However, this does not have the effect of suspending, rescinding, invalidating, or in any way affecting existing contracts."

Section 6. Section 69-3-803, MCA, is amended to read:

"69-3-803. Definitions. As used in this part, the following definitions apply:

(1) "Commercial mobile radio service" means commercial mobile radio service as defined in 47 CFR 20.9.

(2) "Commission" means the public service commission.

(3) "Eligible telecommunications carrier" means a telecommunications provider designated by the commission under 69-3-840.

~~(4) "Fund" means the universal service fund established in 69-3-842.~~

~~(5)(4)~~ "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that:

(a) on February 8, 1996, provided telephone exchange service in the area; and

(b) on February 8, 1996, was considered to be a member of the exchange carrier association pursuant to 47 CFR 69.601(b) or is a person or entity that,

after that date, became a successor or assign of a member of the exchange carrier association.

~~(6)~~(5) “Local telecommunications” means:

(a) telecommunications originating in a wireline local calling area, including extended area service areas, and terminating in the same wireline local calling area or extended area service area; or

(b) commercial mobile radio service that originates from or terminates to a commercial mobile radio service provider within the same major trading area as defined in 47 CFR 24.202(a).

~~(7)~~(6) “Nonlocal telecommunications” means:

(a) wireline telecommunications traffic carried by either an interlocal access transport area carrier or an intralocal access transport area toll provider that originates in one wireline local calling area and terminates in another wireline local calling area; or

(b) commercial mobile radio service that originates in a major trading area and terminates in a different major trading area as defined in 47 CFR 24.202(a).

~~(8)~~(7) “Originating carrier” means a telecommunications carrier from whose network a customer originates telecommunications traffic.

~~(9)~~(8) “Private telecommunications service” means a system, including the construction, maintenance, or operation of the system, for the provision of telecommunications service or any portion of the service, by a person or entity for the sole and exclusive use of that person or entity and not for resale, directly or indirectly. For purposes of this definition, the term “person or entity” includes a corporation and all of its affiliates and subsidiaries if the corporation, affiliates, and subsidiaries have a common ownership or control of 80% of the outstanding voting shares.

~~(10)~~(9) (a) “Regulated telecommunications service” means two-way switched, voice-grade access and transport of communications originating and terminating in this state and nonvoice-grade access and transport if intended to be converted to or from voice-grade access and transport.

(b) Except as provided in 69-3-815, the term does not include the provision of terminal equipment used to originate or terminate the regulated service, private telecommunications service, one-way transmission of television signals, cellular communication, or provision of radio paging or mobile radio services.

~~(11)~~(10) “Retail revenue” means the gross Montana revenue from telecommunications services that originate or terminate in Montana and are billed for a service address in Montana, excluding revenue from the resale of telecommunications services to another telecommunications services provider that uses the telecommunications services to provide telecommunications services to the ultimate retail consumer who originates or terminates the transmission.

~~(12)~~(11) “Rural telephone company” means a local exchange carrier operating entity to the extent that the entity:

(a) provides common carrier service to any local exchange carrier study area that does not include either:

(i) all or any part of an incorporated place of 10,000 inhabitants or more based on the most recently available population statistics of the United States bureau of the census; or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the United States bureau of the census as of August 10, 1993;

(b) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(c) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(d) has less than 15% of its access lines in communities of more than 50,000 on February 8, 1996.

(13)(12) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing without a change in the form or content of the information upon receipt.

(14)(13) (a) "Telecommunications carrier" or "carrier" means any provider of telecommunications services. A person providing other products and services in addition to telecommunications services is considered a telecommunications carrier only to the extent that it is engaged in providing telecommunications services.

(b) The term does not mean aggregators of telecommunications services as defined in 47 U.S.C. 226.

(15)(14) "Terminating carrier" means a telecommunications carrier upon whose network telecommunications traffic terminates.

(16)(15) (a) "Transit traffic" means telecommunications traffic that an originating carrier delivers to a transiting carrier or carriers for delivery to a terminating carrier.

(b) The term does not mean traffic carried by interlocal access transport area carriers or providers of intralocal access transport area toll services.

(17)(16) "Transiting carrier" means a telecommunications carrier or carriers that transport transit traffic from an originating carrier to a terminating carrier and that do not originate or terminate telecommunications traffic."

Section 7. Section 69-3-805, MCA, is amended to read:

"69-3-805. Registration of telecommunications providers. (1) Before any person or entity provides telecommunications service within the state of Montana, it shall file with the commission a notice including:

(a) the name, address, and telephone number of the provider;

(b) the name, address, and telephone number of the person responsible for regulatory contacts and customer dispute resolution on behalf of the provider;

(c) a description of the provider's existing operations and general service and operating areas in any other jurisdictions;

(d) a list of the provider's parent, subsidiary, and affiliated companies, together with principal addresses and telephone numbers of each;

(e) ~~initial tariffs or price lists for regulated telecommunications services, including~~ a narrative description of the regulated telecommunications to be offered and the geographic area and markets to be served;

(f) a general description of the facilities and equipment that will be used to provide services, including whether the service will be offered on a facilities basis, a resale basis, or a combination of both of them;

(g) a statement of whether the provider intends to draw from the federal or state universal service fund or other explicit support funds, including a statement of whether the provider intends to seek the commission's designation as an eligible telecommunications carrier;

(h) disclosure of any formal actions against it by any court or state or federal regulatory agency that resulted in any type of penalty or sanction within the 5 years prior to the date of filing the notice;

(i) if the provider is other than a corporation, a description of the form of ownership, the names and addresses of all principal owners and managers, the provider's agent for service of process in Montana, and the date of creation of the business entity; and

(j) other information from regulated telecommunications carriers as the commission may require to accomplish the purposes of this chapter.

(2) The commission may waive any of the requirements set forth in subsection (1).

(3) The provider shall file with the commission a report of any judgment, penalty, or sanction entered in any other jurisdiction that could adversely affect the provider's ability to provide communications services in Montana."

Section 8. Internet protocol-enabled service not regulated. (1) An internet protocol-enabled service is not subject to regulation under this title.

(2) Except as provided in subsections (3) and (4), an agency, commission, or political subdivision may not enact, adopt, or enforce a law, rule, regulation, ordinance, standard, order, or other provision that regulates the entry, rates, terms, or conditions of any internet protocol-enabled service or otherwise treats providers of internet protocol-enabled service as carriers.

(3) This section does not:

(a) restrict authority delegated to the commission or to a state agency under federal statute, rule, or order;

(b) restrict the application of a law related to consumer protection and fair competition of general applicability to an internet protocol-enabled service or provider;

(c) modify or affect the rights or obligations of a carrier under 47 U.S.C. 251 or 47 U.S.C. 252;

(d) modify or affect commission authority over wholesale telecommunications services, rates, agreements, interconnection, or tariffs;

(e) modify or affect the rights or obligations of any entity for the use of public streets, roads, highways, and rights-of-way, including under an ordinance or agreement managing or providing access to the public right-of-way;

(f) modify or affect the assessment of nondiscriminatory fees associated with enhanced 911 service, universal service, or telecommunications relay service with respect to services described in subsections (4)(b) and (4)(c);

(g) restrict the authority of a state agency to specify requirements for the purchase of an internet protocol-enabled service; or

(h) restrict a commission requirement that a company provider of telecommunications services register as a service provider.

(4) For the purposes of this section, "internet protocol-enabled service" means:

(a) broadband internet service as defined in 90-1-602(1)(a);

(b) interconnected voice-over internet protocol service that enables real-time, two-way voice communications originating or terminating from a user's location using internet protocol or a successor protocol, that allows users to receive calls originating on the public switched telephone network and to terminate calls to the public switched telephone network, and that requires internet protocol-compatible customer premises equipment;

(c) non-interconnected voice-over internet protocol service that enables real-time voice communications over internet protocol or any successor protocol and that requires internet protocol-compatible customer premises equipment but does not otherwise fit the description of interconnected voice-over internet protocol service; or

(d) any other service, capability, function, or application that uses existing internet protocol or any successor internet protocol and enables an end user to send or receive a communication in existing internet protocol format or any successor internet protocol format, regardless of whether the communication is voice, data, or video.

Section 9. Repealer. The following sections of the Montana Code Annotated are repealed:

69-3-806. Prohibition against cross-subsidization.

- 69-3-807. Regulation of rates and charges.
- 69-3-808. Forbearance of rate regulation to facilitate competition.
- 69-3-809. Alternative forms of regulation.
- 69-3-810. New service -- withdrawal of services.
- 69-3-821. Examination of books and records.
- 69-3-841. Universal service policies.
- 69-3-842. Universal service fund established -- purpose.
- 69-3-843. Fund administrator -- commission rulemaking authority.
- 69-3-844. Contributions to fund.
- 69-3-845. Payments from fund -- costs.
- 69-3-846. Discounts for schools, libraries, and health care providers.
- 69-3-870. Performance assurance state special revenue account -- statutory appropriation.
- 69-3-901. Definitions.
- 69-3-902. Rate regulation of small telecommunications provider.
- 69-3-903. Notice of rate increase or decrease.
- 69-3-904. Commission review and determination of rate increases or decreases.
- 69-3-906. Petition for review of proposed rate increase or decrease.
- 69-3-907. Proposed increase or decrease effective unless requisite petitions received by commission.
- 69-3-910. Regulatory flexibility upon petition by small telecommunications provider.

Section 10. Codification instruction. [Section 8] is intended to be codified as an integral part of Title 69, chapter 3, part 8, and the provisions of Title 69, chapter 3, part 8, apply to [section 8].

Section 11. Coordination instruction. If both Senate Bill No. 51 and [this act] are passed and approved and if both contain a section that amends 69-3-805, then [section 7 of this act], amending 69-3-805, is void.

Section 12. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 477

[HB 62]

AN ACT GENERALLY REVISING LAWS RELATED TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEMS ADMINISTERED BY THE PUBLIC EMPLOYEES' RETIREMENT BOARD; PROVIDING FOR RETIREMENT FROM NONLEGISLATIVE EMPLOYMENT; REVISING THE POST-TERMINATION DEADLINE TO APPLY FOR DISABILITY RETIREMENT; PROVIDING THAT DUTY-RELATED DISABILITY RETIREMENT BENEFITS DO NOT CONVERT TO NORMAL RETIREMENT ON REACHING NORMAL RETIREMENT AGE; ASSESSING INTEREST ON PAYROLL REPORTING ERRORS THAT REQUIRE RETROACTIVE CONTRIBUTIONS; PRORATING SERVICE PURCHASES WHEN A MEMBER STOPS MAKING INSTALLMENT PAYMENTS; REMOVING THE PROVISION ALLOWING THE RENOUNCEMENT OF BENEFITS; CLARIFYING THAT DISABILITY RETIREMENT BENEFITS CANNOT BEGIN PRIOR TO THE COMPLETION OF AN APPLICATION; CLARIFYING THE APPLICATION OF EXCESS EARNINGS FOR CALCULATION OF

HIGHEST AND FINAL AVERAGE COMPENSATION; REVISING REQUIRED MINIMUM DISTRIBUTION AND INHERITED ACCOUNT REQUIREMENTS TO COMPLY WITH FEDERAL LAW; DEFINING ALLOWANCE; REVISING THE DEFINITION OF COMPENSATION; EXEMPTING RETIRED MEMBERS UNDER SUBPOENA IN LEGAL PROCEEDINGS RELATED TO PRIOR EMPLOYMENT FROM WORKING RETIREE PROVISIONS; REVISING THE EXCLUSION OF BONUSES FROM COMPENSATION IN THE JUDGES' RETIREMENT SYSTEM, THE HIGHWAY PATROL OFFICERS' RETIREMENT SYSTEM, THE GAME WARDENS' AND PEACE OFFICERS' RETIREMENT SYSTEM, THE MUNICIPAL POLICE OFFICERS' RETIREMENT SYSTEM, AND THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM; ALIGNING WORKING RETIREE LIMITS IN THE SHERIFFS' RETIREMENT SYSTEM WITH SIMILAR PROVISIONS IN OTHER RETIREMENT SYSTEMS; CLARIFYING THAT TERMINATION OF SERVICE IS NECESSARY PRIOR TO RETIREMENT FROM THE GAME WARDENS' AND PEACE OFFICERS' RETIREMENT SYSTEM; CLARIFYING THE SURVIVORSHIP BENEFIT TO BENEFICIARIES OF INACTIVE MEMBERS OF THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM WITH LESS THAN 20 YEARS OF SERVICE; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 5-2-304, 19-2-303, 19-2-406, 19-2-506, 19-2-704, 19-2-801, 19-2-908, 19-2-1005, 19-2-1007, 19-3-108, 19-3-412, 19-3-505, 19-3-1103, 19-3-1106, 19-5-101, 19-5-802, 19-6-101, 19-7-101, 19-7-1101, 19-8-101, 19-8-601, 19-8-1003, 19-9-104, 19-9-1101, 19-13-104, AND 19-13-902, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-2-304, MCA, is amended to read:

"5-2-304. Participation in public retirement systems. (1) The purpose of this section is to allow a person who is elected or appointed to the Montana legislature and who is also a member of a retirement system provided for in Title 19, chapter 3, 5, 6, 7, 8, 9, 13, 20, or 21, by virtue of the person's nonlegislative employment to continue the person's participation in the public retirement system of which the person is a member.

(2) This section is not intended to provide duplicate credit for the same service in two retirement systems supported wholly or in part by public funds. This section does not affect contribution rates or benefit payments specifically provided for in the laws governing the operation of individual retirement systems.

(3) *A person who is an active member of a retirement system provided for in Title 19, chapter 3, 5, 6, 7, 8, 9, or 13, by virtue of the person's nonlegislative employment and who is receiving service credit in that system pursuant to subsection (4) may elect to retire from that system on termination of service from their nonlegislative employment, but the person shall make a one-time, irrevocable election to decline further participation in that system while continuing to be engaged in official duties as a legislator.*

(3)(4) (a) A person who is an inactive or retired member of a retirement system provided for in Title 19, chapter 5, 6, 7, 8, 9, 13, 20, or 21, and who is elected or appointed to be a legislator may:

(i) return to active membership in the system of which the person is an inactive or retired member under the requirements of that system; or

(ii) remain an inactive or retired member of the retirement system and become an active member of the public employees' retirement system pursuant to 19-3-413.

(b) A person who is an inactive or retired member of the public employees' retirement system provided for in Title 19, chapter 3, and who is elected or appointed to the legislature may return to active membership in the public employees' retirement system but cannot simultaneously be an inactive or retired member of the system as a result of prior covered terminated employment and an active member of the retirement system under 19-3-413 or this section.

(4)(5) (a) A person who is an active member of a public retirement system governed by state law and who is elected or appointed to be a legislator may, but is not required to, continue the person's participation in that public retirement system while engaged in official duties as a legislator.

(b) To continue participation as an active member in the public retirement system, a legislator shall, within 90 days of taking office and in a manner prescribed by the appropriate board, file an irrevocable written election with the teachers' retirement board or the public employees' retirement board.

(5)(6) A legislator who elects to continue participation as an active member as provided in ~~subsection (4)~~ *subsection (5)* shall continue the payments into the fund of the retirement system at the rate currently in effect in the system based on the legislator's monthly salary as a member of that system.

(6)(7) The state contribution must be made by legislative appropriation. It must equal the appropriate employer contribution at the rate currently in effect in the system."

Section 2. Section 19-2-303, MCA, is amended to read:

"19-2-303. Definitions. Unless the context requires otherwise, for each of the retirement systems subject to this chapter, the following definitions apply:

(1) "Accumulated contributions" means the sum of all the regular and any additional contributions made by a member in a defined benefit plan, together with the regular interest on the contributions.

(2) "Active member" means a member who is a paid employee of an employer, is making the required contributions, and is properly reported to the board for the most current reporting period.

(3) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory manner to represent the present value of the benefits to be derived from the additional service to be credited based on the most recent actuarial valuation for the system and the age, years until retirement, and current salary of the member.

(4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality table and interest rate assumptions adopted by the board.

(5) "Actuarial liabilities" means the excess of the present value of all benefits payable under a defined benefit retirement plan over the present value of future normal costs in that retirement plan.

(6) "Actuary" means the actuary retained by the board in accordance with 19-2-405.

(7) "Additional contributions" means contributions made by a member of a defined benefit plan to purchase various types of optional service credit as allowed by the applicable retirement plan.

(8) "*Allowance*" means *predetermined remuneration from the employer to the employee for expenses incurred while rendering services or to defray higher than normal costs for necessities, such as housing or travel.*

(8)(9) "Annuity" means:

(a) in the case of a defined benefit plan, equal and fixed payments for life that are the actuarial equivalent of a lump-sum payment under a retirement plan and as such are not benefits paid by a retirement plan and are not subject to periodic or one-time increases; or

(b) in the case of the defined contribution plan, a payment of a fixed sum of money at regular intervals.

(9)(10) "Banked holiday time" means the hours reported for work performed on a holiday that the employee may use for equivalent time off or that may be paid to the employee as specified by the employer's policy.

(10)(11) "Benefit" means:

(a) the service retirement benefit, early retirement benefit, or disability retirement or survivorship benefit payment provided by a defined benefit retirement plan; or

(b) a payment or distribution under the defined contribution retirement plan, including a disability payment under 19-3-2141, for the exclusive benefit of a plan member or the member's beneficiary or an annuity purchased under 19-3-2124.

(11)(12) "Board" means the public employees' retirement board provided for in 2-15-1009.

(12)(13) "Contingent annuitant" means:

(a) under option 2 or 3 provided for in 19-3-1501, one natural person designated to receive a continuing monthly benefit after the death of a retired member; or

(b) under option 4 provided for in 19-3-1501, a natural person, charitable organization, estate, or trust that may receive a continuing monthly benefit after the death of a retired member.

(13)(14) "Covered employment" means employment in a covered position.

(14)(15) "Covered position" means a position in which the employee must be a member of the retirement system except as otherwise provided by law.

(15)(16) "Defined benefit retirement plan" or "defined benefit plan" means a plan within the retirement systems provided for pursuant to 19-2-302 that is not the defined contribution retirement plan.

(16)(17) "Defined contribution retirement plan" or "defined contribution plan" means the plan within the public employees' retirement system established in 19-3-103 that is provided for in chapter 3, part 21, of this title and that is not a defined benefit plan.

(17)(18) "Department" means the department of administration.

(18)(19) "Designated beneficiary" means the person, charitable organization, estate, or trust for the benefit of a natural person designated by a member or payment recipient to receive any survivorship benefits, lump-sum payments, or benefit from a retirement account upon the death of the member or payment recipient, including annuities derived from the benefits or payments.

(19)(20) "Direct rollover" means a payment by the retirement plan to the eligible retirement plan specified by the distributee or a payment from an eligible retirement plan to the retirement plan specified by the distributee.

(20)(21) "Disability" or "disabled" means a total inability of the member to perform the member's duties by reason of physical or mental incapacity. The disability must be incurred while the member is an active member and must be one of permanent duration or of extended and uncertain duration, as determined by the board on the basis of competent medical opinion.

(21)(22) "Distributee" means:

(a) a member;

(b) a member's surviving spouse;

(c) a member's spouse or former spouse who is the alternate payee under a family law order as defined in 19-2-907; or

(d) effective January 1, 2007, a member's nonspouse beneficiary who is a designated beneficiary as defined by section 401(a)(9)(E) of the Internal Revenue Code, 26 U.S.C. 401(a)(9)(E).

(22)(23) "Early retirement benefit" means the retirement benefit payable to a member following early retirement and is the actuarial equivalent of the accrued portion of the member's service retirement benefit.

(23)(24) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

(a) an individual retirement account described in section 408(a) of the Internal Revenue Code, 26 U.S.C. 408(a);

(b) an individual retirement annuity described in section 408(b) of the Internal Revenue Code, 26 U.S.C. 408(b);

(c) an annuity plan described in section 403(a) of the Internal Revenue Code, 26 U.S.C. 403(a);

(d) a qualified trust described in section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a);

(e) effective January 1, 2002, an annuity contract described in section 403(b) of the Internal Revenue Code, 26 U.S.C. 403(b);

(f) effective January 1, 2002, a plan eligible under section 457(b) of the Internal Revenue Code, 26 U.S.C. 457(b), that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from a plan under this title; or

(g) effective January 1, 2008, a Roth IRA described in section 408A of the Internal Revenue Code, 26 U.S.C. 408A.

(24)(25) "Eligible rollover distribution":

(a) means any distribution of all or any portion of the balance from a retirement plan to the credit of the distributee, as provided in 19-2-1011;

(b) effective January 1, 2002, includes a distribution to a surviving spouse or to a spouse or former spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Internal Revenue Code, 26 U.S.C. 414(p).

(25)(26) "Employee" means a person who is employed by an employer in any capacity and whose salary is being paid by the employer or a person for whom an interlocal governmental entity is responsible for paying retirement contributions pursuant to 7-11-105.

(26)(27) "Employer" means a governmental agency participating in a retirement system enumerated in 19-2-302 on behalf of its eligible employees. The term includes an interlocal governmental entity identified as responsible for paying retirement contributions pursuant to 7-11-105.

(27)(28) "Essential elements of the position" means fundamental job duties. An element may be considered essential because of but not limited to the following factors:

(a) the position exists to perform the element;

(b) there are a limited number of employees to perform the element; or

(c) the element is highly specialized.

(28)(29) "Excess earnings" means the difference, if any, between reported compensation and the limits provided in 19-2-1005(2) used to calculate a member's highest average compensation or final average compensation.

(29)(30) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the following June 30.

(30)(31) "Inactive member" means a member who terminates service and does not retire or take a refund of the member's accumulated contributions.

(31)(32) "Internal Revenue Code" has the meaning provided in 15-30-2101.

(32)(33) "Member" means either:

(a) a person with accumulated contributions and service credited with a defined benefit retirement plan or receiving a retirement benefit on account of the person's previous service credited in a retirement system; or

(b) a person with a retirement account in the defined contribution plan.

(33)(34) "Membership service" means the periods of service that are used to determine eligibility for retirement or other benefits.

(34)(35) (a) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost method required to fund accruing benefits for members of a defined benefit retirement plan during any year in the future.

(b) Normal cost does not include any portion of the supplemental costs of a retirement plan.

(35)(36) "Normal retirement age" means the age at which a member is eligible to immediately receive a retirement benefit based on the member's age or both age and length of service, as specified under the member's retirement system, without disability and without an actuarial or similar reduction in the benefit.

(36)(37) "Pension" means benefit payments for life derived from contributions to a retirement plan made from state- or employer-controlled funds.

(37)(38) "Pension trust fund" means a fund established to hold the contributions, income, and assets of a retirement system or plan in public trust.

(38)(39) "Plan choice rate" means the amount of the employer contribution as a percentage of payroll covered by the defined contribution plan members that is allocated to the public employees' retirement system's defined benefit plan pursuant to 19-3-2117 to actuarially fund the unfunded liabilities and the normal cost rate changes in a defined benefit plan resulting from member selection of the defined contribution plan.

(39)(40) "Regular contributions" means contributions required from members under a retirement plan.

(40)(41) "Regular interest" means interest at rates set from time to time by the board.

(41)(42) "Retirement" or "retired" means the status of a member who has:

(a) terminated from service; and

(b) received and accepted a retirement benefit from a retirement plan.

(42)(43) "Retirement account" means an individual account within the defined contribution retirement plan for the deposit of employer and member contributions and other assets for the exclusive benefit of a member of the defined contribution plan or the member's beneficiary.

(43)(44) "Retirement benefit" means:

(a) in the case of a defined benefit plan, the periodic benefit payable as a result of service retirement, early retirement, or disability retirement under a defined benefit plan of a retirement system. With respect to a defined benefit plan, the term does not mean an annuity.

(b) in the case of the defined contribution plan, a benefit as defined in subsection (10)(b) (11)(b).

(44)(45) "Retirement plan" or "plan" means either a defined benefit plan or a defined contribution plan under one of the public employee retirement systems enumerated in 19-2-302.

(45)(46) "Retirement system" or "system" means one of the public employee retirement systems enumerated in 19-2-302.

(46)(47) "Service" means employment of an employee in a position covered by a retirement system.

(47)(48) "Service credit" means the periods of time for which the required contributions have been made to a retirement plan and that are used to calculate retirement benefits or survivorship benefits under a defined benefit retirement plan.

(48)(49) "Service retirement benefit" means the retirement benefit that the member may receive at normal retirement age.

(49)(50) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member of the highway patrol officers', municipal police officers', or firefighters' unified retirement system who are statutorily designated to receive benefits upon the death of the member.

(50)(51) "Supplemental cost" means an element of the total actuarial cost of a defined benefit retirement plan arising from benefits payable for service performed prior to the inception of the retirement plan or prior to the date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or otherwise recognize normal cost accruals or interest on supplemental costs. These costs are included in the unfunded actuarial liabilities of the retirement plan.

(51)(52) "Survivorship benefit" means payments for life to the statutory or designated beneficiary of a deceased member who died while in service under a defined benefit retirement plan.

(52)(53) "Termination of employment", "termination from employment", "terminated employment", "terminated from employment", "terminate employment", or "terminates employment" means that:

(a) there has been a complete severance of a covered employment relationship by the positive act of either the employee, the employer, or both; and

(b) the member is no longer receiving compensation for covered employment, other than any outstanding lump-sum payment for compensatory leave, sick leave, or annual leave.

(53)(54) "Termination of service", "termination from service", "terminated from service", "terminated service", "terminating service", or "terminates service" means that:

(a) there has been a complete severance of a covered employment relationship by the positive act of either the employee, the employer, or both for at least 30 days;

(b) no written or verbal agreement exists between employee and employer that the employee will return to covered employment in the future;

(c) the member is no longer receiving compensation for covered employment; and

(d) the member has been paid all compensation for compensatory leave, sick leave, or annual leave to which the member was entitled. For the purposes of this subsection (53) (54), compensation does not mean compensation as a result of a legal action, court order, or settlement to which the board was not a party.

(54)(55) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a defined benefit retirement plan's actuarial liabilities at any given point in time over the value of its cash and investments on that same date.

(55)(56) "Vested account" means an individual account within a defined contribution plan that is for the exclusive benefit of a member or the member's beneficiary. A vested account includes all contributions and the income on all contributions in each of the following accounts:

(a) the member's contribution account;

- (b) the vested portion of the employer's contribution account; and
- (c) the member's account for other contributions.

(56)(57) "Vested member" or "vested" means:

(a) with respect to a defined benefit plan, except as provided in subsection (56)(b) (57)(b), a member or the status of a member who has at least 5 years of membership service;

(b) with respect to a member of the highway patrol officers' retirement system established in Title 19, chapter 6, who was hired on or after July 1, 2013, a member or the status of a member who has at least 10 years of membership service; or

(c) with respect to the defined contribution plan, a member or the status of a member who meets the minimum membership service requirement of 19-3-2116.

(57)(58) "Written application" or "written election" means a written instrument, prescribed by the board or required by law, properly signed and filed with the board, that contains all required information, including documentation that the board considers necessary.

(58)(59) "Written instrument" includes an electronic record containing an electronic signature, as defined in 30-18-102."

Section 3. Section 19-2-406, MCA, is amended to read:

"19-2-406. Disability retirement -- application -- determination -- benefit conversion -- rules. (1) (a) An active or inactive member may apply for disability retirement in a manner prescribed by the board. However, an application may also be filed on the member's behalf by the head of the office or department in which the member is or was last employed, by any other individual, or by the board.

(b) The application must be filed within ~~4 months~~ ~~6 months~~ *12 months* after the member's termination from employment ~~unless the member is disabled continuously from the date of termination from employment to the date of the application.~~

(2) The board shall determine whether a member has become disabled. In the discharge of its duty regarding determinations, the board, any member of the board, or any authorized representative of the board may order medical examinations, conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary as evidence in connection with a claim for disability retirement. Subpoenas must be issued and enforced pursuant to 2-4-104 of the Montana Administrative Procedure Act.

(3) The board shall adopt rules requiring employers to identify and explain the essential elements of a member's position, any accommodations that were or can be made in compliance with the Americans With Disabilities Act of 1990 (42 U.S.C. 12101, et seq.), and the effectiveness of the accommodations.

(4) The board shall retain medical personnel to advise it in assessing the nature and extent of disabling conditions while reviewing claims for disability retirement.

(5) The disability retirement benefit paid to a member of the defined benefit plan *provided for in Title 19, chapter 3, 9, or 13*, must be converted to a service retirement benefit, without recalculation of the monthly benefit amount, when the member ~~has attained~~ *attains* normal retirement age. The board shall notify the member in writing as to the change in status.

(6) The disability retirement benefit paid to a member of the defined benefit plan provided for in Title 19, chapter 5, 6, 7, or 8, remains a disability retirement benefit when the member attains normal retirement age, but the disability retirement benefit is no longer subject to a medical examination of the member.”

Section 4. Section 19-2-506, MCA, is amended to read:

“19-2-506. Payment of contributions by employers – accompanying reports – penalty – liability. (1) The board shall prescribe by rule the procedure for payment of retirement contributions for the retirement systems administered by the board. Each employer shall pick up the employee contributions and remit the employer and employee contributions required by the member’s retirement system. Payments must be considered delinquent until both the required contributions and the valid payroll report are received by the board.

(2) The board may collect payments delinquent under subsection (1) with an interest penalty at the rate of 9% a year or \$10 a day, whichever is greater. The board may, in its discretion, waive the penalty. The collection may be made by either:

(a) an action in a court of competent jurisdiction against the employer; or

(b) deductions, at the request of the board, from any other money payable to the employer by any agency or fund of the state.

(3) (a) The board shall prescribe by rule the procedure for submitting employer reports. The reports must include data about member and nonmember employees who work for the employer.

(b) The rules must specify the employee categories to be reported, the data required, the method of reporting, the reporting period, and the frequency of reports needed to meet the demands of the relevant retirement system or plan.

(c) The board may establish by rule the penalty fees for noncompliance in reporting any of the required information and the procedure for collection of the fees.

(4) Employer reporting errors that are corrected at a later date must be accompanied by any contributions and interest due in accordance with board rule.

(4)(5) Each employer shall furnish additional information concerning members that the board may request in connection with claims by members for benefits or service under a retirement system.

~~(5)(6)~~ The board is not responsible or liable for any incorrect reporting or erroneous payment of contributions by an employer.

~~(6)(7)~~ The board, from time to time, may send materials to an employer for redistribution to employees. To facilitate distribution, each employer shall provide the board with a point of contact responsible for distributing the materials.”

Section 5. Section 19-2-704, MCA, is amended to read:

“19-2-704. Purchasing service credits allowed – payroll deduction.

(1) Subject to the rules promulgated by the board, an eligible member may elect to make additional contributions to purchase service credits as provided by the statutes governing the retirement system.

(2) Subject to any statutory provision establishing stricter limitations, only active or vested inactive members are eligible to purchase or transfer service credit, membership service, or contributions or to redeposit amounts withdrawn under 19-2-602.

(3) An eligible member who wishes to redeposit amounts withdrawn under 19-2-602 or who is eligible to purchase service credit as provided by the statutes governing the retirement system to which the member belongs may elect to make a lump-sum payment by personal check or rollover of funds from

another eligible plan, to make installment payments, or to make a combination of a lump-sum payment and installment payments.

(4) Installment payments must be made by personal check paid directly to the board unless the member elects to make payments by irrevocable payroll deduction. The minimum installment period for payments is 3 months, and the maximum installment period is 5 years. *If a member making installment payments by personal check ceases to make those payments, the board shall prorate the service credit based on the amount paid.*

(5) To elect installment payments by irrevocable payroll deduction, the member shall file with the board and the member's employer an irrevocable, written application and authorization for payroll deductions. The application and authorization:

(a) must be signed by the member and the member's employer;

(b) must specify the dollar amount of each deduction and the number of deductions to be made, subject to any maximum amounts or duration established by state or federal law;

(c) may not give the member the option of receiving the deduction amounts directly instead of having them paid by the employer to the board; and

(d) must specify that the additional contributions being picked up, although designated as employee contributions, are being paid by the employer directly to the board in lieu of contributions paid directly by the employee.

(6) If the board notifies the employer that a proper written application and authorization has been filed with the board, the employer shall initiate the payroll deduction as follows:

(a) An employer shall pick up the member's elective additional contributions made pursuant to a payroll deduction authorization. The contributions picked up by the employer must be paid from the same source as is used to pay compensation to the member and must be included as part of the member's earned compensation before the deduction is made.

(b) Employee contributions, even though designated as employee contributions for state law purposes, are paid by the member's employer in lieu of contributions paid directly by the member to the board.

(c) The member may not choose to receive the contributed amounts directly instead of having them paid by the employer to the board.

(d) The effective date of the employer pickup and payment pursuant to this section is the date on which the employee's additional contribution is first deducted from the employee's compensation. However, the effective date may not be prior to the date that the member properly completes the written application and authorization for payroll deductions and files it with the board. The pickup may not apply to any additional contributions made before the effective date or to any contributions related to compensation earned for services rendered before the effective date.

(e) Installment payments initiated by contract prior to July 1, 1999, may be paid by payroll deduction only if the member files a written application and authorization for payroll deductions pursuant to this section. If the member does not file a written application and authorization for payroll deductions pursuant to this section, the installment contract payments agreed to by the member must be paid by the member directly to the board.

(f) A member may file more than one irrevocable payroll deduction agreement and authorization as long as a subsequent deduction authorization does not amend a previous irrevocable authorization. A member may not prepay an amount under an irrevocable payroll deduction agreement without terminating employment, except when a member becomes a member of another

retirement system by an authorized election and the service purchase is in accordance with 19-2-715.

(7) If a member terminates employment or dies before completing all payments required by a payroll deduction authorization filed pursuant to this section, the deduction authorization expires and the board shall prorate the service credit based on the amount paid unless further payment is made as provided in this subsection. In the case of a termination from employment, the member may make a lump-sum payment for up to the balance of the service credit remaining to be purchased, subject to the limitations of section 415 of the Internal Revenue Code. In the case of death of the member, the payment may be made from the member's estate subject to the limitations of section 415 of the Internal Revenue Code."

Section 6. Section 19-2-801, MCA, is amended to read:

"19-2-801. Designation of beneficiary. (1) In the absence of any statutory beneficiaries, designated beneficiaries are the natural persons, charitable organizations, estate of the payment recipient, or trusts for the benefit of natural living persons that the member or payment recipient designates on the membership form provided by the board.

(2) Unless otherwise provided by this title or by a valid temporary restraining order issued pursuant to 40-4-121, an order issued pursuant to 40-4-126, or an order issued pursuant to Title 40, chapter 15, a member or payment recipient may revoke the designation and name different designated beneficiaries by filing with the board a new membership form provided by the board.

(3) If a person returns to covered employment in the same retirement system pursuant to 19-2-603, the person shall complete a new membership form and file it as provided in subsection (2). However, until the new membership form is filed, the board shall reference the membership form executed by the person prior to initial termination of membership for the same purposes as prior to termination. Beneficiaries designated on that membership form continue to be beneficiaries until the new membership form is filed.

(4) (a) Except as provided in subsections (4)(b) and (4)(c), the beneficiary designation on the most recent membership form filed with the board is effective for all purposes until the member retires.

(b) A member may elect to either override or retain the member's existing beneficiary designation when completing a membership form for temporary or secondary employment with another employer within the same Title 19 retirement system.

(c) When a member retires, the designated beneficiaries or contingent annuitants named on the retirement application become effective.

(5) If a statutory or designated beneficiary predeceases the member or payment recipient, the predeceased beneficiary's share must be paid to the remaining statutory or designated beneficiaries in amounts proportional to each remaining statutory or designated beneficiary's original share.

(6) A statutory or designated beneficiary who renounces an interest in the payment rights of a member or payment recipient will be considered, with respect to that interest, as having predeceased the member or payment recipient.

(7) A contingent annuitant of a retired member who elected option 2, 3, or 4 pursuant to 19-3-1501, 19-5-701, 19-7-1001, or 19-8-801 may not renounce the contingent annuitant's interest in the payment rights of the member."

Section 7. Section 19-2-908, MCA, is amended to read:

"19-2-908. Time of commencement of benefit – rulemaking.

(1) (a) The board shall grant a benefit to any active or inactive member who is

vested, or the member's statutory or designated beneficiary, who has fulfilled all eligibility requirements, terminated service, and filed the appropriate written application with the board. However, the board may, on its own accord and without a written application, begin benefit payments to a member or beneficiary in order to comply with section 401(a)(9) of the Internal Revenue Code.

(b) A member may apply for retirement benefits before termination from employment, but commencement of the benefits must be as provided in this section.

(2) (a) Except as provided in subsection (2)(b), the service retirement benefit may commence on the first day of the month following the eligible member's last day of employment or, if requested by the member in writing, on the first day of a later month.

(b) If an elected official's term of office expires before the 15th day of the month, the official may elect that service retirement benefits from a defined benefit plan commence on the first day of the month following the official's last full month in office. An official electing this option shall file a written application with the board. An official electing this option may not earn membership service, service credit, or compensation for purposes of calculating highest average compensation or final average compensation, as defined under the provisions of the appropriate retirement system, in the partial month ending the official's term, and compensation earned in that partial month is not subject to employer or employee contributions.

(3) (a) Subject to the provisions of ~~subsection (3)(b)~~ *subsections (1) and (3)(b)*, the disability retirement benefit payable to a member must commence on the day following the member's termination from employment.

(b) If a disabled member continues with a purchase of service or chooses to purchase service following termination of employment, the member's disability benefit may not commence until the service purchase is completed.

(4) If a member begins receiving retirement benefits payments later than when the member is initially eligible, the guaranteed annual benefit adjustment payable pursuant to 19-3-1605, 19-5-901, 19-6-710, 19-6-711, 19-7-711, 19-8-1105, 19-9-1009, 19-9-1010, 19-9-1013, 19-13-1010, and 19-13-1011 does not commence until January 1 of the year after the year in which the member has received a monthly retirement benefit payment in each of the year's 12 months. The guaranteed annual benefit adjustment may not be paid retroactively.

(5) A designated beneficiary eligible to receive a death payment may instead elect a survivorship benefit if the designated beneficiary is a natural person and notifies the board of the designated beneficiary's election in writing within 90 days after the designated beneficiary receives notice that the designated beneficiary is eligible to receive a death payment. Monthly survivorship benefits from a defined benefit plan must commence on the day following the death of the member.

(6) Estimated and finalized benefit payments must be issued as provided in rules adopted by the board.

(7) With respect to the defined contribution plan, the board shall adopt rules regarding the commencement of benefits that are consistent with applicable provisions of the Internal Revenue Code and its implementing regulations."

Section 8. Section 19-2-1005, MCA, is amended to read:

"19-2-1005. Compensation limit. (1) A retirement system or plan subject to this chapter may not take into account compensation of a member in excess of the amount permitted in section 401(a)(17) of the Internal Revenue Code,

26 U.S.C. 401(a)(17), as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Internal Revenue Code, 26 U.S.C. 401(a)(17)(B).

(2) (a) Except as provided in subsection (2)(b), for a member hired on or after July 1, 2013, when calculating the highest average compensation or *final average compensation* for a member with at least *the applicable 48 or 72 months of service credit* or ~~the final average compensation for a member with 48 months of service credit~~, a retirement system or plan subject to this chapter may not include the following amounts of excess earnings in the calculation of the member's highest average compensation or final average compensation:

(i) for the first year included in the calculation, any compensation that is greater than 110% of the compensation paid to the member in the previous year; and

(ii) for each subsequent year included in the calculation, any compensation that is greater than 110% of the compensation included in the calculation for the previous year.

(b) In determining a member's retirement benefit, total excess earnings, if any, must be divided by the member's total months of service credit and added to each month's compensation included in the member's highest average compensation or final average compensation as limited under subsection (2)(a)."

Section 9. Section 19-2-1007, MCA, is amended to read:

"19-2-1007. Required distributions. The benefits payable by a retirement system or plan subject to this chapter are subject to the requirements of section 401(a)(9) of the Internal Revenue Code as follows:

(1) (a) Benefits must begin by April 1 of the calendar year following the later of:

(i) the calendar year in which the member reaches:

(A) 70 1/2 years of age if the member was born before July 1, 1949; ~~or~~

(B) 72 years of age if the member was born after June 30, 1949; ~~or~~

(C) 73 years of age if the member was born after December 31, 1950, and turns 73 before 2033; or

(D) 75 years of age if the member turns 74 after 2032; or

(ii) the calendar year following the calendar year in which the member terminates employment.

(b) If a member fails to apply for retirement benefits by April 1 of the year following the calendar year in which benefits must begin under subsection (1)(a), the board shall begin distribution of the benefits as required by the retirement system or plan to which the member belongs or, subject to subsection (2), as an option 4 benefit in chapters 3, 5, 7, and 8 of this title.

(2) The member's entire interest in a retirement system or plan must be distributed over the life of the member or the lives of the member and a designated beneficiary or over a period not extending beyond the life expectancy of the member or the life expectancy of the member and a designated beneficiary. ~~Death benefits must be distributed in accordance with section 401(a)(9) of the Internal Revenue Code and the regulations implementing that section.~~

(3) The life expectancy of a member or the member's beneficiary may not be recalculated after payment of the benefits has begun.

~~(4) When a member dies after distribution of benefits has begun, the remaining portion of the member's interest must be distributed beginning within 3 months of notification to the board of the death of the member and, if necessary, the identification of the beneficiary pursuant to 19-2-802 and must be distributed at least as rapidly as under the method of distribution prior to the member's death.~~

(5) When a member dies before distribution of benefits has begun, the entire interest of the member must be distributed within 5 years of the member's death. The 5-year payment rule does not apply to any portion of the member's interest that is payable to a designated beneficiary over the life or life expectancy of the beneficiary and that begins within 1 year after the date of the member's death. The 5-year payment rule does not apply to any portion of the member's interest that is payable to a surviving spouse, that is payable over the life or life expectancy of the spouse, and that begins no later than the date the member would have reached 70 1/2 years of age if the member was born before July 1, 1949, or 72 years of age if the member was born after June 30, 1949. Distributions to a member's beneficiary must begin as soon as administratively feasible, but must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died. If the beneficiary has not elected the form of payment by that date, payment to the beneficiary must be made in the form of a lifetime monthly benefit payment if the beneficiary is eligible for a monthly benefit or in a lump sum if that is the only benefit payable to the beneficiary.

(4) *Death benefits must be distributed in accordance with section 401(a)(9) of the Internal Revenue Code and the regulations implementing that section.*

(6)(5) The benefits payable must meet the minimum distribution incidental benefit requirements of section 401(a)(9)(G) of the Internal Revenue Code."

Section 10. Section 19-3-108, MCA, is amended to read:

"19-3-108. Definitions. Unless the context requires otherwise, as used in this chapter, the following definitions apply:

(1) (a) "Compensation" means remuneration paid out of funds controlled by an employer in payment for the member's services or for time during which the member is excused from work because of a holiday or because the member has taken compensatory leave, sick leave, annual leave, banked holiday time, or a leave of absence before any pretax deductions allowed by state or federal law are made.

(b) Compensation does not include:

(i) the contributions made pursuant to 19-3-403(6)(a) for members of a bargaining unit;

(ii) in-kind goods provided by the employer, such as uniforms, housing, transportation, or meals;

(iii) in-kind services, such as the retraining allowance paid pursuant to 2-18-622, or employment-related services;

(iv) contributions to group insurance, such as that provided under 2-18-701 through 2-18-704;

(v) lump-sum payments for compensatory leave, sick leave, banked holiday time, or annual leave paid without termination of employment;

(vi) bonuses provided after July 1, 2013, that are one-time or temporary payments in addition to and not considered part of base pay;

(vii) remuneration paid to a member to reimburse the member for what would normally be the employer's costs of doing business, such as for workstation equipment or telecom services to facilitate telework; or

(viii) *per diems, maintenance, allowances, expenses, or volunteer stipends.*

(2) "Contracting employer" means any political subdivision or governmental entity that has contracted to come into the system under this chapter.

(3) "Defined benefit plan" means the plan within the public employees' retirement system established in 19-3-103 that is not the defined contribution plan.

(4) “Employer” means the state of Montana, its university system or any of the colleges, schools, components, or units of the university system for the purposes of this chapter, or any contracting employer.

(5) “Employer contributions” means payments to a pension trust fund pursuant to 19-3-316 from appropriations of the state of Montana and from contracting employers.

(6) (a) “Highest average compensation” means:

(i) for a member hired prior to July 1, 2011, the highest average monthly compensation during any 36 consecutive months of membership service;

(ii) for a member hired on or after July 1, 2011, the highest average monthly compensation during any 60 consecutive months of membership service; or

(iii) in the event a member has not served the minimum specified period of service, the total compensation earned divided by the months of membership service.

(b) Lump-sum payments for compensatory leave, sick leave, banked holiday time, and annual leave paid to the member upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the regular compensation for a month or months included in the calculation of the highest average compensation. A lump-sum payment may not be added to a single month’s compensation.

(c) Excess earnings limits must be applied to the calculation of the highest average compensation pursuant to 19-2-1005(2).

(7) “System” or “retirement system” means the public employees’ retirement system established in 19-3-103.”

Section 11. Section 19-3-412, MCA, is amended to read:

“19-3-412. Optional membership – employees not in elected office.

(1) Except as provided in subsection (2), the following employees in covered positions that are not elected offices shall elect either to become active members of the retirement system or to decline this optional membership by filing an irrevocable, written application with the board in the manner prescribed in subsection (3):

(a) employees serving in employment that does not cumulatively exceed a total of 960 hours of covered employment with all employers under this chapter in any fiscal year;

(b) employees directly appointed by the governor;

(c) employees working 10 months or less for the legislative branch to perform work related to the legislative session;

(d) the chief administrative officer of any city or county; and

(e) employees of county hospitals or rest homes.

(2) (a) An employee who is an active or inactive member at the time of employment is not eligible to make an election under subsection (1). Upon employment in the position, an employee who was an active member remains an active member for all covered employment and an employee who was an inactive member shall become an active member.

(b) A person who was a retired member before employment in a position for which membership is optional under subsection (1) is not eligible to make an election under subsection (1) and is subject to the provisions of Title 19, chapter 3, part 11.

(3) (a) The board shall prescribe the form of the written application required pursuant to subsection (1) and provide written application forms to each employer.

(b) Each employee in a position covered under subsection (1) shall obtain the written application form from the employer and complete and return it to the board.

(c) The written application must be filed with the board within 90 days after the commencement of the employee's employment.

(d) The employer shall *inform the employee of the option to elect membership* and retain a copy of the employee's written application.

(4) Failure to inform an employee in a position covered under subsection (1) of the employee's option to elect membership must be treated as a correction of a reporting error under 19-2-506(4). An employee who elects membership in the defined benefit plan following discovery of an omission to be informed of the optional election may choose to purchase the retroactive service under 19-3-505, and the employer is obligated to pay the employer contributions as well as accrued interest in both the employer and employee contributions.

~~(4)(5)~~ If the employee fails to file with the board the written application required under subsection (1) within the time allowed in subsection (3), the failure must be considered an election to decline membership.

~~(5)(6)~~ Except as provided in ~~subsection (6)~~ *subsection (7)*, an employee who declines optional membership may not receive membership service or service credit for the employment for which membership was declined.

~~(6)(7)~~ An employee who declined optional membership but later becomes a member may purchase service credit for the period of time beginning with the date of employment in which membership was declined to the commencement of membership. Purchase of service credit pursuant to this subsection must comply with 19-3-505.

~~(7)(8)~~ An employee who has made an election under this section may not make a new or different election under this section in any circumstance unless the employee has been terminated from employment in all optional membership positions for at least 30 days.

~~(8)(9)~~ An employee accepting a position that requires membership shall become a member even if the employee previously declined membership under this section."

Section 12. Section 19-3-505, MCA, is amended to read:

"19-3-505. Purchase of previous employment with employer.

(1) Subject to the provisions of this section, a member who has employment for which optional membership was declined or employment with an employer prior to the employer's contract coverage may file a written application with the board to purchase all or a portion of the employment for service credit and membership service. The application must include salary information certified by the member's employer or former employer.

(2) (a) A purchase under this section is subject to the board's approval.

(b) If the board approves the request, the member shall pay all contributions that the member would have contributed during the period of employment as if the employment had been covered by the retirement system and shall pay ~~the regular interest that would have accumulated on the amount to the time of payment~~ *interest at the actuarially assumed rate of return in effect at the time of the request.*

(c) The employer shall establish a policy as to the payment of retroactive employer contributions or retroactive employer contributions and regular interest and apply this policy indiscriminately for all employees and former employees. All employee appeals of discrimination are subject to the determination of the board. All successful appeals obligate the employer to pay the employer and employee contributions with accrued interest for that employee filing the appeal with the board. Each appeal must be heard on

its individual merits and may not bind the employer to pay all retroactive payments for all former and present employees.

(d) If the employer establishes a policy under subsection (2)(c) of nonpayment, the member shall pay the amount not paid by the employer in order to receive service credit and membership service for the period of employment.”

Section 13. Section 19-3-1103, MCA, is amended to read:

“19-3-1103. Disability benefit reduced by earnings. (1) (a) If the recipient of a disability retirement benefit is self-employed or employed in a position not covered by the retirement system, the recipient shall submit to the board an annual earnings statement, and any other documentation requested by the board, covering each month during which the recipient was self-employed or employed in the position.

(b) The amount of the recipient's retirement benefit ~~for each month of employment~~ must be reduced *annually* to an amount that, when added to the compensation earned by the recipient in that occupation, does not exceed the ~~amount of the recipient's monthly~~ *highest average* compensation at the time of the recipient's retirement.

(c) The board shall annually adjust the recipient's ~~monthly~~ *highest average* compensation as it was at the time of retirement by an inflationary factor *equivalent to the consumer price index for all urban consumers* if the recipient has been receiving a disability retirement benefit for more than 36 consecutive months.

(d) If the disability benefit recipient fails to submit the documentation as required under subsection (1)(a), the board may suspend the benefit payments until it receives the documentation.

(2) Benefit adjustments granted by the legislature may not be included in calculations required under this section.”

Section 14. Section 19-3-1106, MCA, is amended to read:

“19-3-1106. Limited reemployment – reduction of service retirement benefit upon exceeding limits – reporting obligations – liability – exceptions. (1) A retired member under 65 years of age who was hired prior to July 1, 2011, who has been terminated from employment for at least 90 days, and who is receiving a service retirement benefit or early retirement benefit may return to employment covered by the retirement system for a period not to exceed 960 hours in any calendar year without returning to active service and without any effect to the retiree's retirement benefit. The retirement benefit for any retiree exceeding this 960-hour limitation in any calendar year after retirement must be temporarily reduced \$1 for each \$1 earned after working 960 hours in that calendar year.

(2) A retired member who is 65 years of age or older but less than 70 1/2 years of age, who has been terminated from employment for at least 90 days, and who returns to employment covered by the retirement system is either subject to the 960-hour limitation of subsection (1) or may earn in any calendar year an amount that, when added to the retiree's current annual retirement benefit, will not exceed the member's annualized highest average compensation, adjusted for inflation as of January 1 of the current calendar year, whichever limitation provides the higher limit on earned compensation to the retiree. Upon reaching the applicable limitation, the retiree's benefits must be temporarily reduced \$1 for each \$1 of compensation earned in service beyond the applicable limitation during that calendar year.

(3) (a) The employer of a retiree returning to employment covered by the retirement system shall certify to the board the number of hours worked by the retiree and the gross compensation paid to the retiree in that employment during any pay period after retirement. The certification of hours and

compensation may be submitted electronically pursuant to rules adopted by the board.

(b) An employer that fails to timely or accurately report the employment of, time worked by, or compensation paid to a retired member as required under subsection (3)(a) is jointly and severally liable with the retired member for repayment to the retirement system of retirement benefits paid to which the member was not entitled, plus interest.

(4) Except as provided in 19-3-412 and 19-3-413, a retiree returning to employment covered by the retirement system may elect to return to active service at any time during this period of employment covered by the retirement system.

(5) The following members who return to employment covered by the retirement system are not subject to the hour or earnings limitations in subsections (1) and (2) but are subject to the reporting requirements in subsection (3):

(a) a retired member who is 70 1/2 years of age or older; **or**

(b) an elected official in a covered position who, as a retired member, declines optional membership as provided in 19-3-413; **or**

(c) *a retired member who receives compensation, such as witness fees, for a limited period as a necessary witness in an ongoing civil or criminal matter related to their former employment.*

(6) If a retired member is employed by an employer in a position that is reportable to the retirement system and the retired member is concurrently working for the employer in another position that is not reportable to the system, the position that is not reportable is considered to be part of the position that is reportable to the retirement system. All earnings of the retired member that are generated by these positions are reportable to the retirement system.

(7) (a) For the purposes of this section, “employment covered by the retirement system” includes:

(i) work performed by a retiree through a professional employer arrangement, an employee leasing arrangement, or a temporary service contractor as those terms are defined in 39-8-102; and

(ii) services performed by a retiree as an independent contractor for an employer participating in the system.

(b) For *the* purposes of this section, compensation for a retiree covered by subsection (7)(a) is limited to compensation for the work performed by the retiree and does not include any additional payment for overhead costs or costs not directly related to the work performed.”

Section 15. Section 19-5-101, MCA, is amended to read:

“19-5-101. Definitions. Unless a different meaning is plainly implied by the context, the following definitions apply in this chapter:

(1) (a) “Compensation” means remuneration, as defined in 2-16-403, 3-5-211, and 3-7-222, paid to a member.

(b) Compensation does not include bonuses provided after July 1, 2013, that are one-time; *or* temporary payments in addition to and not considered part of base pay.

(2) “Current salary” means the current compensation for the office retired from.

(3) (a) “Highest average compensation” means a member’s highest average monthly compensation during any 36 consecutive months of membership service.

(b) Excess earnings limits must be applied to the calculation of the highest average compensation pursuant to 19-2-1005(2).

(4) “Involuntary retirement” means a retirement not for cause and before retirement age.

(5) “Retired judge” means any judge or justice in receipt of a retirement benefit under this chapter.”

Section 16. Section 19-5-802, MCA, is amended to read:

“19-5-802. Payments upon death from other than employment-related cause. (1) (a) If a vested member dies before reaching normal retirement age, the member’s designated beneficiary is entitled to a monthly survivorship benefit that is the actuarial equivalent of the retirement benefit provided in 19-5-502.

(b) *If a nonvested member dies before reaching normal retirement age, the member’s designated beneficiary is entitled to a lump-sum refund of the accumulated contributions standing to the member’s credit at the time of the member’s death.*

(2) When a retired member not covered under 19-5-901 and receiving an option 1 retirement benefit under 19-5-701 dies, the member’s designated beneficiary must be paid the amount, if any, of the member’s accumulated contributions calculated as of the day of the member’s retirement minus the total of any retirement benefits already paid from the member’s account. At the designated beneficiary’s request, the lump sum may be paid as an actuarially equivalent annuity that will not be subject to increases for any purpose.

(3) When a retired member covered under 19-5-901 and receiving an option 1 retirement benefit under 19-5-701 dies, the member’s designated beneficiary must be paid the amount, if any, of the member’s accumulated contributions calculated as of the day of the member’s retirement minus the total of any retirement benefits already paid from the member’s account.

(4) If a retired member who elected an option 2 or 3 benefit under 19-5-701 dies with no surviving contingent annuitant, the member’s designated beneficiary or, if there is no surviving designated beneficiary, the member’s estate must be paid the amount, if any, of the member’s accumulated contributions calculated as of the day of the member’s retirement minus the total of any retirement benefits already paid from the member’s account.

(5) This section does not apply if the member was receiving a disability benefit. The member’s accumulated contributions may not be reduced by the disability benefits already paid unless the disability benefit was converted to a service retirement benefit pursuant to 19-2-406(5).”

Section 17. Section 19-6-101, MCA, is amended to read:

“19-6-101. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

(1) (a) “Compensation” means remuneration paid from funds controlled by an employer in payment for the member’s services or for time during which the member is excused from work because the member has taken compensatory leave, sick leave, annual leave, or a leave of absence before any pretax deductions allowed by state or federal law are made.

(b) Compensation does not include:

(i) *per diems*, maintenance, allowances, and expenses; or

(ii) bonuses provided after July 1, 2013, that are one-time; or temporary payments in addition to and not considered part of base pay.

(2) “Dependent child” means an unmarried child of a deceased retired member, who is:

(a) under 18 years of age; or

(b) under 24 years of age and attending an accredited postsecondary educational institution as a full-time student in anticipation of receiving a certificate or degree.

(3) (a) "Highest average compensation" means a member's highest average monthly compensation during any 36 consecutive months of membership service or, in the event a member has not served at least 36 months, the total compensation earned divided by the number of months of service.

(b) Lump-sum payments for compensatory leave, sick leave, and annual leave paid to the member upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of the highest average compensation. A lump-sum payment may not be added to a single month's compensation.

(c) Excess earnings limits must be applied to the calculation of the highest average compensation pursuant to 19-2-1005(2).

(4) "Surviving spouse" means the spouse married to a retired member at the time of the retired member's death.

(5) "Survivor" means a surviving spouse or dependent child of a member."

Section 18. Section 19-7-101, MCA, is amended to read:

"19-7-101. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

(1) (a) "Compensation" means remuneration paid from funds controlled by an employer for the member's services or for time during which the member is excused from work because the member has taken compensatory leave, sick leave, annual leave, or a leave of absence before any pretax deductions allowed by state or federal law are made.

(b) Compensation does not include:

(i) *per diems*, maintenance, allowances, and expenses; or

(ii) bonuses provided after July 1, 2013, that are one-time; or temporary payments in addition to and not considered part of base pay.

(2) "Detention officer" means any detention officer who is hired by a sheriff, employed in a detention center, and acting as a detention officer for the sheriff and who has received or is expected to receive training to meet the employment standards set for detention officers by the Montana public safety officer standards and training council established in 2-15-2029.

(3) (a) "Highest average compensation" means:

(i) for members hired prior to July 1, 2011, the member's highest average monthly compensation during any 36 consecutive months of membership service;

(ii) for members hired on or after July 1, 2011, the highest average compensation during any 60 consecutive months of membership service; or

(iii) if a member has not served the minimum specified period of membership service as applicable in subsection (3)(a)(i) or (3)(a)(ii), the total compensation earned divided by the number of months of service.

(b) Lump-sum payments for compensatory leave, sick leave, and annual leave paid to the member upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of the highest average compensation. A lump-sum payment may not be added to a single month's compensation.

(c) Excess earnings limits must be applied to the calculation of the highest average compensation pursuant to 19-2-1005(2).

(4) "Investigator" means a person who is employed by the department of justice as a criminal investigator or as a gambling investigator.

(5) "Sheriff" means any elected or appointed county sheriff or undersheriff or any appointed, lawfully trained, appropriately salaried, and full-time deputy sheriff with the requisite professional certification and licensing."

Section 19. Section 19-7-1101, MCA, is amended to read:

“19-7-1101. Reemployment of retired members – contributions required. (1) A retired member who returns to ~~covered~~ employment *covered by the retirement system* for 480 hours or more in a calendar year must become an active member of the system. Upon reinstatement as an active member, benefit payments must cease until subsequent retirement.

(2) A retired member who returns to ~~covered~~ employment *covered by the retirement system* for less than 480 hours in a calendar year may not become an active member. The retirement benefit of a retired member in covered employment must be reduced by \$1 for each \$3 earned in excess of \$5,000 in a calendar year.

(3) Retired members who return to active service pursuant to subsection (1) are subject to the employee and employer contributions set forth in 19-7-403 and 19-7-404.

(4) The employer of a retired member who is returning to covered employment pursuant to subsection (2) shall contribute the amounts specified in 19-7-404.”

Section 20. Section 19-8-101, MCA, is amended to read:

“19-8-101. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

(1) (a) “Compensation” means remuneration paid from funds controlled by an employer in payment for the member’s services or for time during which the member is excused from work because the member has taken compensatory leave, sick leave, annual leave, banked holiday time, or a leave of absence before any pretax deductions allowed by state or federal law are made.

(b) Compensation does not include:

(i) *per diems*, maintenance, allowances, and expenses; or

(ii) bonuses provided after July 1, 2013, that are one-time; or temporary payments in addition to and not considered part of base pay.

(2) “Game warden” means a state fish and game warden hired by the department of fish, wildlife, and parks and includes all warden supervisory personnel whose salaries or compensation is paid out of the department of fish, wildlife, and parks money.

(3) (a) “Highest average compensation” means:

(i) for members hired prior to July 1, 2011, the highest average monthly compensation during any 36 consecutive months of membership service;

(ii) for members hired on or after July 1, 2011, the highest average monthly compensation during any 60 consecutive months of membership service; or

(iii) in the event a member has not served the minimum specified period of membership service, the total compensation earned divided by the number of months of service.

(b) Lump-sum payments for compensatory leave, sick leave, annual leave, and banked holiday time paid to the member upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of the highest average compensation. A lump-sum payment may not be added to a single month’s compensation.

(c) Excess earnings limits must be applied to the calculation of the highest average compensation pursuant to 19-2-1005(2).

(4) “Motor carrier officer” means an employee of the department of transportation designated or appointed as a peace officer pursuant to 61-10-154 or 61-12-201.

(5) “Peace officer” or “state peace officer” means a person who by virtue of the person’s employment with the state is vested by law with a duty to maintain public order or make arrests for offenses while acting within the scope of the person’s authority or who is charged with specific law enforcement responsibilities on behalf of the state.”

Section 21. Section 19-8-601, MCA, is amended to read:

“19-8-601. Time of retirement. (1) Subject to a member’s right to a refund of the member’s accumulated contributions under Title 19, chapter 2, part 6, the following members are eligible to receive a nonforfeitable service retirement benefit under 19-8-603:

(a) a member who has *terminated service*, completed at least 20 years of membership service, reached 50 years of age, and files a written application with the board; or

(b) a vested member who terminated service before completing 20 years of membership service and applies to begin receiving a service retirement benefit upon reaching 55 years of age.

(2) For purposes of compliance with section 411 of the Internal Revenue Code, 26 U.S.C. 411, a member described in subsection (1)(a) is treated as having attained normal retirement age and has a nonforfeitable right to the member’s service retirement.”

Section 22. Section 19-8-1003, MCA, is amended to read:

“19-8-1003. Nonduty-related death of active member. (1) If a vested member dies before reaching normal retirement age, the member’s designated beneficiary may choose either a lump-sum refund of the member’s accumulated contributions or the actuarial equivalent of the service retirement benefit provided for in 19-8-603.

(2) *If a nonvested member dies before reaching normal retirement age, the member’s designated beneficiary is entitled to a lump-sum refund of the accumulated contributions standing to the member’s credit at the time of the member’s death.”*

Section 23. Section 19-9-104, MCA, is amended to read:

“19-9-104. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

(1) (a) “Compensation” means the remuneration paid from funds controlled by an employer in payment for the member’s services before any pretax deductions allowed by state or federal law are made.

(b) Compensation does not include:

(i) overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave and annual leave;

(ii) *per diems*, maintenance, allowances, and expenses; or

(iii) bonuses provided after July 1, 2013, that are one-time; or temporary payments in addition to and not considered part of base pay.

(2) “Dependent child” means a child of a deceased member:

(a) who is unmarried and under 18 years of age; or

(b) who is unmarried, under 24 years of age, and attending an accredited postsecondary educational institution as a full-time student in anticipation of receiving a certificate or degree.

(3) “Employer” means any city that participated in a prior plan or that elects to join this retirement system under 19-9-207.

(4) (a) “Final average compensation” means the monthly compensation of a member averaged over the last 36 months of the member’s service or, in the event a member has not served at least 36 months, the total compensation earned divided by the number of months of service.

(b) Excess earnings limits must be applied to the calculation of the final average compensation pursuant to 19-2-1005(2).

(5) "Minimum retirement date" means the first day of the month coinciding with or, if none coincides, the date on which a member both becomes age 50 and completes 5 years of membership service.

(6) Any reference to "municipality", "city", or "town" includes those jurisdictions that, prior to the effective date of a county-municipal consolidation, were incorporated municipalities, subsequent districts created for urban law enforcement services, or the entire county included in the county-municipal consolidation.

(7) "Police officer" means an appointed, lawfully trained, appropriately salaried, and regularly acting officer with the requisite professional certification and licensing.

(8) "Prior plan" means the local police reserve or pension trust fund of a city that elects to join the retirement system under 19-9-207.

(9) "Retirement date" means the date on which the first payment of the retirement, disability, or survivorship benefits of a member or a survivor is payable.

(10) "Surviving spouse" means the spouse married to a member at the time of the member's death.

(11) "Survivor" means a surviving spouse or dependent child of the member."

Section 24. Section 19-9-1101, MCA, is amended to read:

"19-9-1101. Preretirement death benefits. *(1) Upon the death of an active member, the member's surviving spouse or dependent child is eligible for benefits equal to one-half of the member's final average compensation, payable as provided in 19-9-804(2). If the deceased member has completed over 20 years of membership service, the survivorship benefit must equal 2.5% of the member's final average compensation for each year of service credit.*

(2) On the death of an inactive member, the member's surviving spouse or dependent child is eligible for a lump-sum refund of the accumulated contributions standing to the member's credit at the time of the member's death."

Section 25. Section 19-13-104, MCA, is amended to read:

"19-13-104. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

(1) Any reference to "city" or "town" includes those jurisdictions that, before the effective date of a county-municipal consolidation, were incorporated municipalities, subsequent districts created for urban firefighting services, or the entire county included in the county-municipal consolidation.

(2) (a) "Compensation" means:

(a)(i) for a full-paid firefighter, the remuneration paid from funds controlled by an employer in payment for the member's services before any pretax deductions allowed by state and federal law are made;

(a)(ii) for a part-paid firefighter employed by a city of the second class:

(A) 15% of the regular remuneration, excluding overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year to a newly confirmed, full-paid firefighter of the city that employs the part-paid firefighter; or

(B) if that city does not employ a full-paid firefighter, 15% of the average regular remuneration, excluding overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year to all newly confirmed, full-paid firefighters employed by cities of the second class.

(b) Compensation for full-paid and part-paid firefighters does not include:

(i) overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave;

(ii) *per diems*, maintenance, allowances, and expenses; or

(iii) bonuses provided after July 1, 2013, that are one-time; or temporary payments in addition to and not considered part of base pay.

(3) "Dependent child" means a child of a deceased member who is:

(a) unmarried and under 18 years of age; or

(b) unmarried, under 24 years of age, and attending an accredited postsecondary educational institution as a full-time student in anticipation of receiving a certificate or degree.

(4) "Employer" means:

(a) any city that is of the first or second class or that elects to join this retirement system under 19-13-211;

(b) a city or a rural fire district referred to in 19-13-210(3);

(c) with respect to firefighters covered in the retirement system pursuant to 19-13-210(2), the department of military affairs established in 2-15-1201; and

(d) any other statutorily allowed entity that elects to join this retirement system pursuant to 19-13-210.

(5) "Firefighter" means a person employed as a full-paid or part-paid firefighter by an employer.

(6) "Full-paid firefighter" means a person appointed pursuant to 7-33-4106 by an employer as a firefighter meeting the standards provided in 7-33-4107.

(7) (a) "Highest average compensation" means the monthly compensation of a member averaged over the highest consecutive 36 months of the member's active service or, in the event a member has not served at least 36 consecutive months, the total compensation earned divided by the number of months of service.

(b) Lump-sum payments for annual leave paid to the member upon termination of employment may be used to replace, on a month-for-month basis, the regular compensation for a month or months included in the calculation of highest average compensation.

(c) Excess earnings limits must be applied to the calculation of the highest average compensation pursuant to 19-2-1005(2).

(8) "Minimum retirement date" means the first day of the month coinciding with or immediately following, if none coincides, the date on which a member both reaches 50 years of age or older and completes 5 or more years of membership service.

(9) "Newly confirmed firefighter" means a new member of a fire department appointed pursuant to 7-33-4106 and meeting the standards of 7-33-4107.

(10) "Part-paid firefighter" means a person other than a full-paid firefighter employed by a second-class city who receives compensation in excess of \$300 in a fiscal year for service as a firefighter and who is appointed by an employer as a firefighter under the standards provided in 7-33-4106 and 7-33-4107.

(11) "Prior plan" means the fire department relief association plan of a city that elects to join the retirement system under 19-13-211 or the fire department relief association plan of a city of the first or second class.

(12) "Retirement date" means the date on which the first payment of benefits is payable.

(13) "Retirement system" means the firefighters' unified retirement system provided for in this chapter.

(14) "Surviving spouse" means the spouse married to a member at the time of the member's death."

Section 26. Section 19-13-902, MCA, is amended to read:

“19-13-902. Survivorship benefit. (1) A member’s surviving spouse, if there is one, must receive a survivorship benefit amount as provided in this section. If a member leaves no surviving spouse or ~~upon~~ *on* the death of the surviving spouse, the member’s surviving dependent children must collectively receive the same benefit that a surviving spouse would have received under this section. A child may receive a share of the benefit as long as the child is a dependent child, as defined in 19-13-104.

(2) (a) The survivorship benefit paid ~~upon~~ *on* the death of an active member who has completed less than 20 years of membership service is one-half the highest average compensation received by the member.

(b) *The survivorship benefit paid on the death of an inactive member who has completed less than 20 years of membership service is a lump-sum refund of the accumulated contributions standing to the member’s credit at the time of the member’s death.*

~~(b)(c)~~ (c) The survivorship benefit paid ~~upon~~ *on* the death of an active or inactive member who has completed over 20 years of membership service is the benefit amount to which the member was entitled on the date of death.

(3) Benefits provided under this section are subject to the benefit adjustments provided pursuant to part 10 of this chapter.”

Section 27. Coordination instruction. If both Senate Bill No. 316 and [this act] are passed and approved and if both contain a section that amends 19-2-406, then [section 3(5) of this act], amending 19-2-406(5), is void.

Section 28. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2025.

(2) [Section 12] is effective July 1, 2026.

Approved May 8, 2025

CHAPTER NO. 478

[HB 70]

AN ACT REQUIRING A STUDY OF STATE FIRE SUPPRESSION ISSUES, METHODS, AND COSTS; PROVIDING AN APPROPRIATION; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

WHEREAS, since the destructive Big Burn of 1910, federal wildfire policy has been to suppress fires at all costs, resulting in forests that are overstocked with fuel; and

WHEREAS, wildfires now consume twice as much land each year on average than in the 1990s, a trend expected to continue; and

WHEREAS, more than one-third of Montana homes are exposed to moderate to high wildfire risk; and

WHEREAS, a variety of factors have exacerbated the risks, including regulatory red tape, incomplete government partnerships, unexplored economic benefits, and unrecognized risk sharing; and

WHEREAS, environmental reviews, endangered species concerns, and pernicious litigation prevent necessary mechanical treatment and prescribed burns, which could lessen ladder and canopy fuels, reduce fuel loads, and improve habitat; and

WHEREAS, profitable markets for shrubs and small-diameter trees may be developed in engineered-wood plants to produce oriented-strand board, biochar, or wood chips; and

WHEREAS, use of prescribed fires as a management tool should be encouraged, perhaps as a recognized property right, expanded liability protections, or certified burning; and

WHEREAS, controlled livestock grazing can be an effective tool for managing fuel loads; and

WHEREAS, as the number of homes in areas with moderate or high wildfire risk has doubled since 1990, volunteer, local, state, and federal authorities are faced with protecting these structures; and

WHEREAS, improved cooperation between states, tribes, and counties can together improve forest health and reduce wildfire risk; and

WHEREAS, use of all resources should be examined to maximize private, local government, and state fire resources; and

WHEREAS, the Montana Legislature, which sets policy for and pays for much of the wildland firefighting on behalf of state taxpayers, has not fully examined these and other related issues since 2009.

Be it enacted by the Legislature of the State of Montana:

Section 1. Study of state fire suppression issues, methods, and costs. (1) The environmental quality council provided for in 5-16-101 shall conduct a comprehensive fire suppression study.

(2) The study must include an investigation of:

(a) firefighting operations in Montana by the state and federal governments, including operations on tribal land and private land, and the management policies affecting the success of those operations;

(b) the efficient use of fire suppression resources, including equipment and firefighters;

(c) the impact of operations on private land and the effective use of private resources to fight fires; and

(d) state and federal forest management and grazing policies and how those policies may potentially affect the number of wildfires, safety risk to firefighters, or fire suppression efforts.

(3) The environmental quality council shall complete the study by September 15, 2026, and report its findings and recommendations, including legislation, to the 70th legislature.

Section 2. Appropriation. There is appropriated \$50,000 from the general fund to the legislative services division for the biennium beginning July 1, 2025, to pay for costs associated with the study required under [section 1.]

Section 3. Contingent voidness. (1) Pursuant to Joint Rule 40-65, if [this act] does not include an appropriation prior to being transmitted to the governor, then [this act] is void.

(2) If the appropriation in [section 2] is vetoed, then [this act] is void.

Section 4. Effective date. [This act] is effective on passage and approval.

Section 5. Termination. [This act] terminates December 31, 2026.

Approved May 8, 2025

CHAPTER NO. 479

[HB 100]

AN ACT GENERALLY REVISING PUBLIC RECORD LAWS; ESTABLISHING REQUIREMENTS AND DEADLINES FOR PUBLIC AGENCIES THAT ARE NOT LOCAL GOVERNMENTS; GENERALLY REVISING FEES FOR PUBLIC INFORMATION REQUESTS; ESTABLISHING A 2-YEAR RETENTION PERIOD OF INFORMATION REQUESTS AND RESPONSES FOR PUBLIC AGENCIES THAT ARE NOT LOCAL GOVERNMENTS; ESTABLISHING THE FEES THAT A PUBLIC AGENCY MAY CHARGE WHEN RESPONDING TO PUBLIC INFORMATION REQUESTS; PROVIDING THAT THE FIRST HOUR OF SERVICE NOT BE CHARGED; ESTABLISHING AN HOURLY FEE LIMIT; ALLOWING A PERSON TO FILE AN ACTION IN DISTRICT COURT IF A PUBLIC AGENCY THAT IS NOT A LOCAL GOVERNMENT FAILS TO MEET THE RESPONSE DEADLINE; AMENDING SECTIONS 2-6-1006 AND 2-6-1009, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

WHEREAS, the right to know is a fundamental right; and

WHEREAS, consistent application of the right to know in the branches of state government is in the public interest; and

WHEREAS, access to public information is essential to participation in the activities of state government; and

WHEREAS, in the absence of standards of general application, the agencies and branches of state government have each developed their own procedures and fees for obtaining access to public information; and

WHEREAS, inconsistency and unpredictability lead to uncertainty on the part of individuals seeking access to public information; and

WHEREAS, such uncertainty may discourage people from exercising the right to know; and

WHEREAS, providing consistent standards for handling public information requests across the agencies and branches of state government and setting reasonable limits on the fees charged to individuals requesting public information ensure people will know what to expect.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-6-1006, MCA, is amended to read:

“2-6-1006. Public information requests – fees. (1) (a) A person may request public information from a public agency. A public agency shall make the means of requesting public information accessible to all persons.

(b) (i) All public agencies are governed by this subsection (1).

(ii) A public agency that is not an executive branch agency must meet the requirements of subsection (2) when responding to a public information request.

(iii) (A) Except as provided in subsections (1)(b)(iii)(B) and subsection (1)(b)(iv), all executive branch agencies must meet the requirements of subsection (3) when responding to a public information request.

(B) The provisions of subsection (3) apply to the secretary of state, the justice department, the superintendent of public instruction, and the state auditor beginning on October 1, 2025.

(iv) The secretary of state must meet the requirements of subsection (4) regarding fees.

(c) A public agency other than the office of the secretary of state may charge, pursuant to this subsection (1)(c), a fee for fulfilling a public information

request. Except where a fee is otherwise provided for by law, the fee may not exceed the actual costs directly incident to fulfilling the request in the most cost-efficient and timely manner possible *a fee pursuant to subsections (1)(e) and (5) and this subsection (1)(c).* The fee must be documented. ~~The fee may include the time required to gather public information.~~ The public agency may require the requesting person to pay the estimated fee prior to identifying and gathering the requested public information.

(d) A public agency is not required to alter or customize public information to provide it in a form specified to meet the needs of the requesting person.

(e) If a public agency agrees to a request to customize a records request response, the costs of the customization may be included in the fees charged by the agency.

(2) Upon receiving a request for public information, a public agency that is not an executive branch agency shall respond in a timely manner to the requesting person by:

(a) making the public information maintained by the public agency available for inspection and copying by the requesting person; or

(b) providing the requesting person with an estimate of the time it will take to fulfill the request if the public information cannot be readily identified and gathered *and as well as* any fees that may be charged ~~pursuant to subsection (1)(c).~~

(3) (a) (i) An executive branch agency shall respond to a public information request by acknowledging receipt of the request within 5 business days of the agency's designated contact person receiving the request. Except for confidential, privileged, or otherwise protected information that is not subject to public disclosure under applicable law and information withheld from public scrutiny as provided in 2-6-1003, the executive branch agency shall respond by:

~~(i)(A)~~ making the public information maintained by the executive branch agency available in a timely manner for inspection and copying by the requesting person;

~~(ii)(B)~~ providing a specified public record to the requesting person within 5 working days of the executive branch agency's acknowledgment of receipt of the request if the request is for a single, specific, clearly identifiable, and readily available public record. ~~This subsection (3)(a)(ii) does not apply to requests pertaining only to a specified person or property, including requests for applications, vital records, licenses, permits, or registrations; or~~

~~(iii)(C)~~ responding as provided in subsection (3)(b).

~~(ii) Subsection (3)(a)(i)(B) does not apply to requests pertaining only to a specified person or property, including requests for applications, vital records, licenses, permits, or registrations.~~

(b) (i) If a request seeks public information that cannot be readily identified and gathered, the agency shall provide the requesting person an estimate of the time it will take to fulfill the request and any fees that may be charged ~~pursuant to subsection (1)(c)~~ and shall provide the public information to the requesting person in a timely manner, which may be, except as provided in subsection (3)(b)(ii), within *either*:

(A) 90 days of the public agency's acknowledgment of the request; or

(B) 6 months of the public agency's acknowledgment of the request if the agency determines 90 days is not feasible for a response and the agency provides the requesting person written notice explaining why the agency is unable to provide a response within 90 days.

(ii) If an executive branch agency requires a requesting person to pay an estimated fee ~~pursuant to subsection (1)(c)~~, the agency's obligation to respond

to the request is suspended upon sending the estimate to the requesting person and remains suspended until the requesting person makes payment.

(c) An executive branch agency may request additional information or clarification from a requesting person for the purpose of expediting the agency's response to the request. If the agency has requested additional information or clarification, the agency's obligation to respond to the request is suspended until the requesting person provides the requested information or clarification or until the requesting person denies the agency's request for additional information or clarification. If a person requesting public information fails to respond within 30 days to an agency's request for additional information or clarification, the agency may close the request after notifying the requesting person.

(d) Each executive branch agency must have a designated contact for public information requests posted on its website.

(e) By ~~November 1, 2024, or 1 month after this section becomes applicable to an executive branch agency, whichever occurs second~~, an executive branch agency that is subject to this subsection (3) shall:

(i) establish a public information request process describing the steps for submitting a request and the process the agency will follow when responding to a request for public information, which must be published on a state website;

(ii) provide statistics about public information requests received by the designated contact of the agency, including the number of requests and the agency's response time to fulfill or otherwise resolve the requests; and

(iii) retain and publish on a state website the public information requests the agency has received and the agency's response. *Requests and responses must be available for 2 years from the date of the request.* The agency is not required to publish requests or responses if the request:

(A) was not submitted according to the agency's posted process;

(B) pertains only to a specific person or property, including requests for applications, vital records, licenses, permits, registrations, and related supporting documents; or

(C) was for information accessible on a state website or other publication available at the time the request was made.

(4) (a) The secretary of state is authorized to charge fees under this section. The fees must be set and deposited in accordance with 2-15-405. The fees must be collected in advance.

(b) The secretary of state may not charge a fee to a member of the legislature or a public officer for any search relative to matters pertaining to the duties of the member's office or for a certified copy of any law or resolution passed by the legislature relative to the member's official duties.

(5) *A public agency may charge the following fees:*

(a) *fees for making public information maintained by the public agency available for inspection and copying by the requesting person at the public agency. A public agency that incurs a cost may only charge for it once pursuant to subsections (5)(a)(i) through (5)(a)(v). These fees may include but are not limited to:*

(i) *fees not exceeding \$25 an hour for searching for, gathering, reviewing, processing, and providing information in the most cost-efficient and timely manner possible;*

(ii) *the actual cost to fulfill the request, subject to the limit provided in subsection (5)(a)(i);*

(iii) *the cost of providing the public information to the requester, including but not limited to copying and media costs;*

(iv) *a convenience fee as provided in 2-17-1102, if applicable; and*

(v) other reasonable costs directly incurred by the public agency.

(b) fees for fulfilling a request for a single, specific, clearly identifiable, and readily available public record. A public agency that incurs a cost may only charge for it once pursuant to subsections (5)(b)(i) through (5)(b)(v). These fees may include but are not limited to:

(i) fees not exceeding \$25 an hour for gathering, reviewing, processing, and providing information in the most cost-efficient and timely manner possible;

(ii) the actual cost to fulfill the request, subject to the limit provided in subsection (5)(b)(i);

(iii) the cost of providing the public information to the requester, including but not limited to scanning, copying, media, postage, and shipping costs;

(iv) a convenience fee as provided in 2-17-1102, if applicable; and

(v) other reasonable costs directly incurred by the public agency.

(c) fees for fulfilling a request for public information that is not a request for a single, specific, clearly identifiable, and readily available public record. A public agency that incurs a cost may only charge for it once pursuant to subsection (5)(c)(i) through (5)(c)(vi). After the first hour of service, which is free after the filing fee in subsection (5)(c)(i) is paid, these fees may include but are not limited to:

(i) a filing fee not to exceed \$5;

(ii) fees not exceeding \$25 an hour for searching for, gathering, reviewing, processing, and providing information in the most cost-efficient and timely manner possible;

(iii) the actual cost to fulfill the request, subject to the limit provided in subsection (5)(c)(ii);

(iv) the cost of providing the public information to the requester, including but not limited to scanning, copying, media, postage, and shipping costs;

(v) a convenience fee as provided in 2-17-1102, if applicable; and

(vi) other reasonable costs directly incurred by the public agency."

Section 2. Section 2-6-1006, MCA, is amended to read:

"2-6-1006. Public information requests – fees. (1) (a) A person may request public information from a public agency. A public agency shall make the means of requesting public information accessible to all persons.

(b) (i) All public agencies are governed by this subsection (1).

(ii) A public agency that is not an executive branch agency local government must meet the requirements of subsection (2) when responding to a public information request. A local government is not subject to subsection (3).

(iii) (A) Except as provided in subsections (1)(b)(iii)(B) and (1)(b)(iv), all executive branch agencies subsection (1)(b)(iv), a public agency that is not a local government must meet the requirements of subsection (3) when responding to a public information request.

(B) The provisions of subsection (3) apply to the secretary of state, the justice department, the superintendent of public instruction, and the state auditor beginning on October 1, 2025.

(iv) The secretary of state must meet the requirements of subsection (4) regarding fees.

(c) A public agency other than the office of the secretary of state may charge, pursuant to this subsection (1)(c), a fee for fulfilling a public information request. Except where a fee is otherwise provided for by law, the fee may not exceed the actual costs directly incident to fulfilling the request in the most cost-efficient and timely manner possible a fee pursuant to subsections (1)(e) and (5) and this subsection (1)(c). The fee must be documented. The fee may include the time required to gather public information. The public agency may require the requesting person to pay the estimated fee prior to identifying and gathering the requested public information.

(d) A public agency is not required to alter or customize public information to provide it in a form specified to meet the needs of the requesting person.

(e) If a public agency agrees to a request to customize a records request response, the costs of the customization may be included in the fees charged by the agency.

(2) Upon receiving a request for public information, a ~~public agency that is not an executive branch agency~~ *local government* shall respond in a timely manner to the requesting person by:

(a) making the public information maintained by the ~~public agency~~ *local government* available for inspection and copying by the requesting person; or

(b) providing the requesting person with an estimate of the time it will take to fulfill the request if the public information cannot be readily identified and gathered ~~and as well as~~ any fees that may be charged ~~pursuant to subsection (1)(c).~~

(3) (a) ~~(i) An executive branch agency~~ *A public agency that is not a local government* shall respond to a public information request by acknowledging receipt of the request within 5 business days of the agency's designated contact person receiving the request. Except for confidential, privileged, or otherwise protected information that is not subject to public disclosure under applicable law and information withheld from public scrutiny as provided in 2-6-1003, ~~the executive branch agency~~ *a public agency that is not a local government* shall respond by:

~~(i)(A)~~ making the public information maintained by the ~~executive branch~~ agency available in a timely manner for inspection and copying by the requesting person;

~~(ii)(B)~~ providing a specified public record to the requesting person within 5 working days of the ~~executive branch~~ agency's acknowledgment of receipt of the request if the request is for a single, specific, clearly identifiable, and readily available public record. ~~This subsection (3)(a)(ii) does not apply to requests pertaining only to a specified person or property, including requests for applications, vital records, licenses, permits, or registrations; or~~

~~(iii)(C)~~ responding as provided in subsection (3)(b).

~~(ii)~~ *Subsection (3)(a)(i)(B) does not apply to requests pertaining only to a specified person or property, including requests for applications, vital records, licenses, permits, or registrations.*

(b) (i) If a request seeks public information that cannot be readily identified and gathered, ~~the agency~~ *a public agency that is not a local government* shall provide the requesting person an estimate of the time it will take to fulfill the request and any fees that may be charged ~~pursuant to subsection (1)(c)~~ and shall provide the public information to the requesting person in a timely manner, which may be, except as provided in subsection (3)(b)(ii), within *either*:

(A) 90 days of the ~~public agency's~~ acknowledgment of the request; or

(B) 6 months of the ~~public agency's~~ acknowledgment of the request if the agency determines 90 days is not feasible for a response and the agency provides the requesting person written notice explaining why the agency is unable to provide a response within 90 days.

(ii) If an ~~executive branch~~ agency requires a requesting person to pay an estimated fee ~~pursuant to subsection (1)(c)~~, the agency's obligation to respond to the request is suspended upon sending the estimate to the requesting person and remains suspended until the requesting person makes payment.

(c) ~~An executive branch agency~~ *A public agency that is not a local government* may request additional information or clarification from a requesting person for the purpose of expediting the agency's response to the request. If the agency has requested additional information or clarification, the agency's obligation to

respond to the request is suspended until the requesting person provides the requested information or clarification or until the requesting person denies the agency's request for additional information or clarification. If a person requesting public information fails to respond within 30 days to an agency's request for additional information or clarification, the agency may close the request after notifying the requesting person.

(d) Each ~~executive branch agency~~ *public agency that is not a local government* must have a designated contact for public information requests posted on its website.

(e) ~~By November 1, 2024, or 1 month after this section becomes applicable to an executive branch agency, whichever occurs second, an executive branch agency that is subject to this subsection (3) November 1, 2026, a public agency that is not a local government shall:~~

(i) establish a public information request process describing the steps for submitting a request and the process the agency will follow when responding to a request for public information, which must be published on a state website;

(ii) provide statistics about public information requests received by the designated contact of the agency, including the number of requests and the agency's response time to fulfill or otherwise resolve the requests; and

(iii) retain and publish on a state website the public information requests the agency has received and the agency's response. *Requests and responses must be available for 2 years from the date of the request.* The agency is not required to publish requests or responses if the request:

(A) was not submitted according to the agency's posted process;

(B) pertains only to a specific person or property, including requests for applications, vital records, licenses, permits, registrations, and related supporting documents; or

(C) was for information accessible on a state website or other publication available at the time the request was made.

(4) (a) The secretary of state is authorized to charge fees under this section. The fees must be set and deposited in accordance with 2-15-405. The fees must be collected in advance.

(b) The secretary of state may not charge a fee to a member of the legislature or a public officer for any search relative to matters pertaining to the duties of the member's office or for a certified copy of any law or resolution passed by the legislature relative to the member's official duties.

(5) *A public agency may charge the following fees:*

(a) *fees for making public information maintained by the public agency available for inspection and copying by the requesting person at the public agency. A public agency that incurs a cost may only charge for it once pursuant to subsection (5)(a)(i) through (5)(a)(v). These fees may include but are not limited to:*

(i) *fees not exceeding \$25 an hour for searching for, gathering, reviewing, processing, and providing information in the most cost-efficient and timely manner possible;*

(ii) *the actual cost to fulfill the request, subject to the limit provided in subsection (5)(a)(i);*

(iii) *the cost of providing the public information to the requester, including but not limited to copying and media costs;*

(iv) *a convenience fee as provided in 2-17-1102, if applicable; and*

(v) *other reasonable costs directly incurred by the public agency.*

(b) *fees for fulfilling a request for a single, specific, clearly identifiable, and readily available public record. A public agency that incurs a cost may only*

charge for it once pursuant to subsections (5)(b)(i) through (5)(b)(v). These fees may include but are not limited to:

(i) fees not exceeding \$25 an hour for gathering, reviewing, processing, and providing information in the most cost-efficient and timely manner possible;

(ii) the actual cost to fulfill the request, subject to the limit provided in subsection (5)(b)(i);

(iii) the cost of providing the public information to the requester, including but not limited to scanning, copying, media, postage, and shipping costs;

(iv) a convenience fee as provided in 2-17-1102, if applicable; and

(v) other reasonable costs directly incurred by the public agency.

(c) fees for fulfilling a request for public information that is not a request for a single, specific, clearly identifiable, and readily available public record. A public agency that incurs a cost may only charge for it once pursuant to subsections (5)(c)(i) through (5)(c)(vi). After the first hour of service, which is free after the filing fee in subsection (5)(c)(i) is paid, these fees may include but are not limited to:

(i) a filing fee not to exceed \$5;

(ii) fees not exceeding \$25 an hour for searching for, gathering, reviewing, processing, and providing information in the most cost-efficient and timely manner possible;

(iii) the actual cost to fulfill the request, subject to the limit provided in subsection (5)(c)(ii);

(iv) the cost of providing the public information to the requester, including but not limited to scanning, copying, media, postage, and shipping costs;

(v) a convenience fee as provided in 2-17-1102, if applicable; and

(vi) other reasonable costs directly incurred by the public agency.”

Section 3. Section 2-6-1009, MCA, is amended to read:

“2-6-1009. Written notice of denial – failure to meet response deadline – civil action – costs to prevailing party in certain actions to enforce constitutional or statutory rights. (1) A public agency that denies an information request to release information or records shall provide a written explanation for the denial.

(2) If a person who makes an information request receives a denial from a public agency and believes that the denial violates the provisions of this chapter, the person may file a complaint pursuant to the Montana Rules of Civil Procedure in district court.

(3) If a person who makes an information request to ~~an executive branch agency~~ a public agency that is not a local government does not receive a response from the agency as required in 2-6-1006(3), the person may file a complaint in district court.

(4) A person alleging a deprivation of rights who prevails in an action brought in district court to enforce the person’s rights under Article II, section 9, of the Montana constitution or under the provisions of Title 2, chapter 6, parts 10 through 12, may be awarded costs and reasonable attorney fees.”

Section 4. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 5. Effective dates. (1) Except as provided in subsection (2), [this act] is effective October 1, 2025.

(2) [Sections 2 and 3] are effective July 1, 2026.

Section 6. Termination. [Section 1] terminates June 30, 2026.

Approved May 8, 2025

CHAPTER NO. 480

[HB 192]

AN ACT INCREASING THE FEES CHARGED BY A COUNTY CLERK AND RECORDER FOR RECORDING DOCUMENTS; INCREASING THE DEPOSIT IN THE RECORDS PRESERVATION FUND, THE COUNTY LAND INFORMATION ACCOUNT, AND THE MONTANA GEOSPATIAL INFORMATION ACCOUNT; PROVIDING FOR THE FEE TO INCREASE BIENNIALY BY AN INFLATION FACTOR; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 7-4-2632, 7-4-2635, AND 7-4-2637, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-4-2632, MCA, is amended to read:

“7-4-2632. Fee when recording done by mechanical means.

Except as provided in 7-2-2803(4), whenever recording is done by a ~~using a~~ photographic or similar process, the county clerk and recorder shall charge ~~\$7 for each \$20 for the first page or fraction of a page of the instrument for recording and \$10 a page for each additional page or fraction of a page.”~~

Section 2. Section 7-4-2635, MCA, is amended to read:

“7-4-2635. Records preservation fund authorized. (1) The board of county commissioners shall establish a records preservation fund for the purpose of preserving the records maintained by the county clerk and recorder. The county clerk and recorder is responsible for expenditures from the fund and shall use the money for records preservation.

(2) The county clerk and recorder shall deposit ~~\$1~~ \$2 of the fee received under 7-4-2632 ~~into~~ in the records preservation fund.

(3) The governing body of the county may transfer to the general fund any money in the records preservation fund that is not needed for records preservation.”

Section 3. Section 7-4-2637, MCA, is amended to read:

“7-4-2637. Fees for recording documents – rulemaking. (1) Except as provided in 7-2-2803(4) and 7-4-2631, the fee for recording a standard document that meets the requirements of 7-4-2636 is ~~\$8 for each page or fraction of a page. as follows:~~

(a) \$20 for the first page or fraction of a page and \$10 a page for each additional page or fraction of a page; and

(b) beginning July 1, 2027, the department of revenue shall set the fee under this subsection (1) by administrative rule to adjust for inflation. The fee contained in subsection (1)(a) must be adjusted biennially using an inflation factor, which is determined by dividing the consumer price index for June of the previous tax year by the consumer price index for June 2025. The resulting figure must be rounded down to the nearest whole dollar amount.

(2) Except as provided in 7-2-2803(4), the fee for recording a document that does not meet the requirements of 7-4-2636 is the fee specified in subsection (1) plus \$10.

(3) (a) Of the fees collected under subsection (1), for each page or fraction of a page:

(i) ~~\$1~~ \$2 must be deposited in the records preservation fund, provided for in 7-4-2635;

(ii) ~~50~~ 75 cents must be deposited in the county land information account provided for in 7-6-2230;

(iii) ~~\$1.50~~ \$2.25 must be transmitted each month to the department of revenue in the manner prescribed by the department of revenue for deposit in the Montana geospatial information account created in 90-1-409; ~~and~~

(iv) the remainder must be deposited as provided for in 7-4-2511; *and*

(v) *beginning July 1, 2027, the department of revenue shall set the amounts deposited or transmitted under subsections (3)(a)(i) through (3)(a)(iii) by administrative rule to adjust for inflation. The amounts contained in subsections (3)(a)(i) through (3)(a)(iii) must be adjusted biennially using an inflation factor, which is determined by dividing the consumer price index for June of the previous tax year by the consumer price index for June 2025. The resulting figure must be rounded down to the nearest quarter dollar amount.*

(b) The fees collected under subsection (2) must be deposited in the records preservation fund provided for in 7-4-2635."

Section 4. Effective date. [This act] is effective October 1, 2025.

Section 5. Applicability. [This act] applies to documents recorded on or after October 1, 2025.

Approved May 8, 2025

CHAPTER NO. 481

[HB 225]

AN ACT REVISING LAWS RELATED TO HOME INSPECTIONS; ALIGNING THE HOME INSPECTION PROGRAM WITH OTHER DEPARTMENTAL LICENSING PROGRAMS; PROVIDING DEFINITIONS; PROVIDING FEES; PROVIDING RULEMAKING AUTHORITY; REVISING LAW RELATED TO HOME INSPECTION LICENSURE; INCREASING THE MINIMUM COVERAGE AMOUNT FOR ERRORS AND OMISSIONS INSURANCE; PROVIDING STANDARDS FOR THE PRACTICE OF HOME INSPECTIONS; AMENDING SECTIONS 37-1-401, 39-9-101, 39-9-102, 39-9-206, 39-9-207, 39-9-301, AND 39-9-303, MCA; REPEALING SECTIONS 39-9-212 AND 39-9-213, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 4], the following definitions apply:

(1) "Department" means the department of labor and industry.

(2) (a) "Home inspection" means a physical examination of a residential dwelling to identify major defects in various attributes of or attachments to the dwelling, including mechanical, electrical, and plumbing systems in addition to structural and other essential components. Home inspections are performed for compensation and employ visual observation and the testing of user controls but not mathematical or specialized engineering sciences.

(b) The term does not mean a physical examination of a residential dwelling when the owner or a representative of the owner requests the examination by an individual who is licensed in this state and acting within the scope of practice of the individual's profession or occupation.

(3) "Home inspection report" means a written document prepared by a home inspector for a client and issued to the client in exchange for compensation after a home inspection has been completed. The report must clearly identify and describe:

(a) the inspected systems, structures, and other relevant components of the dwelling;

(b) any major visible defects in the inspected systems, structures, and other relevant components of the dwelling; and

(c) any recommendations for further evaluation of the property by other appropriate persons.

(4) "Home inspector" means an individual who performs a home inspection for compensation.

(5) "Practice" means to engage in the services of home inspection as the term is defined in this section.

Section 2. Department rulemaking – fees. (1) The department may adopt rules necessary to implement [sections 1 through 4].

(2) The fees collected under [sections 1 through 4] in accordance with 37-1-134 must be deposited in a special revenue account for administration and enforcement of [sections 1 through 4].

Section 3. License to practice home inspections required – qualifications. (1) An individual may not practice home inspection without a home inspector license issued under Title 37, chapter 1, and [sections 1 through 4].

(2) An applicant for a home inspection license must have:

(a) successfully completed a minimum of 40 hours of comprehensive home inspection instruction approved by the department;

(b) membership in a national home inspection association; and

(c) a minimum of \$125,000 liability insurance coverage in errors and omissions insurance.

(3) The requirements in subsections (2)(b) and (2)(c) of this section must be maintained for continued licensure.

Section 4. Standards of home inspection practice. (1) A home inspector shall issue a written home inspection report to a client after completing a home inspection unless the client agrees in writing to release the home inspector from this obligation.

(2) The home inspection report must clearly identify and describe:

(a) the inspected systems, structures, and other relevant components of the dwelling;

(b) any major visible defects in the inspected systems, structures, and other relevant components of the dwelling; and

(c) any recommendations for further evaluation of the property by other appropriate persons.

(3) A home inspector may not:

(a) accept compensation from more than one party with a financial interest in the residential dwelling without written approval from all parties with a financial interest in the residential dwelling;

(b) accept a commission or allowance, directly or indirectly, from another individual or business entity associated with the client in connection with work for which the home inspector is responsible to the client; or

(c) refuse or otherwise fail to disclose promptly to a client information about any business interest or relationship of the home inspector that may affect the client in connection with a home inspection.

Section 5. Section 37-1-401, MCA, is amended to read:

"37-1-401. (Temporary) Uniform regulation for licensing programs without boards – definitions. As used in this part, the following definitions apply:

(1) "Complaint" means a written allegation filed with the department that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(2) “Department” means the department of labor and industry provided for in 2-15-1701.

(3) “Investigation” means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a complaint or other information before the department, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the department;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether the department should seek an injunction.

(4) “License” means permission in the form of a license, permit, endorsement, certificate, recognition, or registration granted by the state of Montana to engage in a business activity or practice at a specific level in a profession or occupation governed by:

(a) Title 37, chapter 2, part 6;

(b) Title 37, chapter 16, 40, 56, 60, 72, ~~or~~ 73, or [sections 1 through 4]; or

(c) Title 50, chapter 39, 74, or 76.

(5) “Profession” or “occupation” means a profession or occupation regulated by the department under the provisions of:

(a) Title 37, chapter 2, part 6;

(b) Title 37, chapter 16, 40, 49, 56, 60, 72, ~~or~~ 73, or [sections 1 through 4]; or

(c) Title 50, chapter 39, 74, or 76. (Terminates June 30, 2031--sec. 10, Ch. 628, L. 2023.)

37-1-401. (Effective July 1, 2031) Uniform regulation for licensing programs without boards – definitions. As used in this part, the following definitions apply:

(1) “Complaint” means a written allegation filed with the department that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(2) “Department” means the department of labor and industry provided for in 2-15-1701.

(3) “Investigation” means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a complaint or other information before the department, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the department;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether the department should seek an injunction.

(4) “License” means permission in the form of a license, permit, endorsement, certificate, recognition, or registration granted by the state of Montana to engage in a business activity or practice at a specific level in a profession or occupation governed by:

(a) Title 37, chapter 16, 40, 56, 60, 72, ~~or~~ 73, or [sections 1 through 4]; or

(b) Title 50, chapter 39, 74, or 76.

(5) “Profession” or “occupation” means a profession or occupation regulated by the department under the provisions of:

(a) Title 37, chapter 16, 40, 49, 56, 60, 72, ~~or~~ 73, or [sections 1 through 4]; or

(b) Title 50, chapter 39, 74, or 76.”

Section 6. Section 39-9-101, MCA, is amended to read:

“39-9-101. Purpose. It is the purpose of this chapter to ensure that all construction contractors ~~and home inspectors~~ are competing fairly and in compliance with state laws.”

Section 7. Section 39-9-102, MCA, is amended to read:

“39-9-102. Definitions. As used in this chapter, the following definitions apply:

(1) “Construction contractor” means a person, firm, or corporation that:

(a) in the pursuit of an independent business, offers to undertake, undertakes, or submits a bid to construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish for another a building, highway, road, railroad, excavation, or other structure, project, development, or improvement attached to real estate, including the installation of carpeting or other floor covering, the erection of scaffolding or other structures or works, or the installation or repair of roofing or siding; or

(b) in order to do work similar to that described in subsection (1)(a) upon the construction contractor’s property, employs members of more than one trade on a single job or under a single building permit, except as otherwise provided.

(2) “Department” means the department of labor and industry.

(3) (a) “Home inspection” means a physical examination of a residential dwelling to identify major defects in various attributes of or attachments to the dwelling, including mechanical, electrical, and plumbing systems in addition to structural and other essential components. Home inspections are performed for compensation and employ visual observation and the testing of user controls but not mathematical or specialized engineering sciences.

(b) The term does not mean a physical examination of a residential dwelling when the owner or a representative of the owner requests the examination by an individual who is licensed, certified, or registered in this state and who is acting within the scope of practice of the individual’s profession or occupation.

(4) “Home inspection report” means a written document prepared by a home inspector for a client and issued to the client in exchange for compensation after a home inspection has been completed. The report must clearly identify and describe:

(a) the inspected systems, structures, and other relevant components of the dwelling;

(b) any major visible defects in the inspected systems, structures, and other relevant components of the dwelling; and

(c) any recommendations for further evaluation of the property by other appropriate persons;

(5) “Home inspector” means a person who performs a home inspection for compensation.”

Section 8. Section 39-9-206, MCA, is amended to read:

“39-9-206. Fees – education program. (1) The department shall charge fees to construction contractors ~~and home inspectors~~ for:

(a) issuance, renewal, and reinstatement of certificates of registration; and

(b) change of name, address, or business structure.

(2) The department shall set the fees by administrative rule. The fees must cover the full cost of issuing certificates, filing papers and notices, and administering and enforcing this chapter. The costs include reproduction, travel, per diem, and administrative and legal support costs.

(3) The fees charged in subsection (1)(a) may not exceed:

(a) for a construction contractor:

(i) \$70 for the initial registration certificate; or

(ii) \$70 for the renewal or reinstatement of a registration certificate; or

(b) for a home inspector, an amount determined in rule for the initial registration certificate or for the renewal or reinstatement of a registration certificate. *\$70 for the initial registration certificate or for the renewal or reinstatement of a registration certificate.*

(4) The fees collected under this section must be deposited in a state special revenue account to the credit of the department for the administration and enforcement of this chapter and independent contractor certification provided for in Title 39, chapter 71, part 4.

(5) The department shall establish, cooperatively with representatives of the building industry, ~~and the home inspection industry~~, an industry and consumer information program, funded with 15% of the fees, to educate the building industry ~~and home inspectors~~ about the registration requirements and to educate the public regarding the hiring of building construction contractors ~~and home inspectors~~.

(6) The fee for a joint application for a certificate of registration and an independent contractor exemption certificate may not exceed the total fee charged for a certificate of registration and an independent contractor exemption certificate that are obtained separately. The fee paid for the independent contractor exemption certificate may be used by the department to offset the cost of administering independent contractor certification provided for in Title 39, chapter 71, part 4.”

Section 9. Section 39-9-207, MCA, is amended to read:

“39-9-207. Registration – limiting liability. A person who, pursuant to an oral or written contract, engages a construction contractor ~~or a home inspector~~ who is registered under this chapter on the date of the contract is not liable as an employer for workers’ compensation coverage under 39-71-405, for unemployment insurance coverage, or for wages and fringe benefits for:

(1) the registered construction contractor ~~or home inspector~~;

(2) the employees of the registered construction contractor ~~or home inspector~~; or

(3) any subsequent subcontractor or the employees of any subsequent subcontractor engaged to fulfill a part of or all of the obligations of the oral or written contract of the registered construction contractor ~~or home inspector~~ listed in subsection (1).”

Section 10. Section 39-9-301, MCA, is amended to read:

“39-9-301. Business practices – penalty. (1) Except as provided in 39-9-205, a person who has registered under one name as provided in this chapter may not engage in the business or act in the capacity of a construction contractor ~~or a home inspector~~ under any other name unless that name also is registered under this chapter.

(2) Use of a falsified registration number in connection with a solicitation or identification as a construction contractor ~~or a home inspector~~ is prohibited.

(3) A partner, associate, agent, salesperson, solicitor, officer, or employee of a construction contractor ~~or a home inspector~~ shall use a true name and address at all times while engaged in the business or capacity of a construction contractor ~~or a home inspector~~ or in activities related to a construction contractor ~~or a home inspector~~.

(4) A construction contractor may not:

(a) hire a person as an independent contractor who does not have an independent contractor exemption certificate if required by 39-71-417;

(b) hire a person as an independent contractor if the department has suspended, revoked, or denied the person’s independent contractor’s exemption certificate;

(c) hire an independent contractor to work in a trade, business, occupation, or profession not listed on the independent contractor’s registration;

(d) allow an independent contractor to perform work not in the trade, business, occupation, or profession listed on the independent contractor exemption certificate; or

(e) classify an employee as an independent contractor if the person does not have an independent contractor exemption certificate required by 39-71-417.

(5) (a) The finding of a violation of this section by the department at a hearing held in accordance with the Montana Administrative Procedure Act subjects the person who commits the violation to a penalty of not more than \$5,000, as determined by the department. The required hearing may be held by telephone or by videoconference. A penalty collected under this section must be deposited in the state special revenue account to the credit of the department for administration and enforcement of this chapter.

(b) Penalties under this section do not apply to a violation that is determined to be an inadvertent error.”

Section 11. Section 39-9-303, MCA, is amended to read:

“39-9-303. Department to compile and update registration lists – availability – fee. (1) The department shall compile a list of all construction contractors ~~and home inspectors~~ registered under this chapter and update the ~~list at least bimonthly.~~ ~~list of construction contractors at least bimonthly and the list of home inspectors as provided by rule.~~ The list is public information and must be available to the public upon request for a reasonable fee or posted on the department’s website.

(2) The department shall inform a person, firm, or corporation whether a construction contractor ~~or a home inspector~~ is registered. The department shall provide the information without charge, except for a reasonable fee for any copies made.”

Section 12. Repealer. The following sections of the Montana Code Annotated are repealed:

39-9-212. Home inspector registration -- penalty -- rulemaking.

39-9-213. Requirement -- prohibitions.

Section 13. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 37, and the provisions of Title 37 apply to [sections 1 through 4].

Section 14. Coordination instruction. (1) If House Bill No. 239 is passed and approved and if it includes a section that amends 39-9-101, then [section 6 of this act], amending 39-9-101, is void and 39-9-101 must be repealed.

(2) If House Bill No. 239 is passed and approved and if it includes a section that amends 39-9-102, then [section 7 of this act], amending 39-9-102, is void and 39-9-102 must be repealed.

(3) If House Bill No. 239 is passed and approved and if it includes a section that amends 39-9-206, then [section 8 of this act], amending 39-9-206, is void and 39-9-206 must be repealed.

(4) If House Bill No. 239 is passed and approved and if it includes a section that amends 39-9-207, then [section 9 of this act], amending 39-9-207, is void and 39-9-207 must be repealed.

(5) If House Bill No. 239 is passed and approved and if it includes a section that amends 39-9-301, then [section 10 of this act], amending 39-9-301, is void and 39-9-301 must be repealed.

(6) If House Bill No. 239 is passed and approved and if it includes a section that amends 39-9-303, then [section 11 of this act], amending 39-9-303, is void and 39-9-303 must be repealed.

(7) If both House Bill No. 239 and [this act] are passed and approved, then 39-9-103 and 39-9-401 must be repealed.

Section 15. Effective date. [This act] is effective January 1, 2026.

Approved May 8, 2025

CHAPTER NO. 482

[HB 252]

AN ACT GENERALLY REVISING SCHOOL FUNDING LAWS; ENHANCING THE SCHOOL FUNDING FORMULA THROUGH INCENTIVES AND A HOUSING COST BUDGET AUTHORITY INCREASE; REVISING THE INCENTIVE TO INCREASE TEACHER BASE SALARIES; ESTABLISHING A NEW INCENTIVE RELATED TO RESOURCE SHARING AMONG SCHOOL DISTRICTS; EXPANDING THE TYPES OF EDUCATIONAL ENTITIES THAT CAN RECEIVE INCENTIVES FOR MEETING STARTING TEACHER PAY BENCHMARKS; RENAMING AND REVISING THE QUALITY EDUCATOR FUNDING COMPONENT; RESTORING FULL FUNDING TO THE ADVANCED OPPORTUNITIES PROGRAM; INCLUDING DISTRICT CLERKS PERFORMING CERTAIN FUNCTIONS IN THE QUALITY EDUCATOR AND QUALIFIED STAFF FUNDING COMPONENT; INCLUDING CERTAIN INDIVIDUALS WORKING UNDER AN EMERGENCY AUTHORIZATION IN THE QUALITY EDUCATOR AND QUALIFIED STAFF FUNDING COMPONENT; ESTABLISHING A NEW K-12 BASE AID FUTURE READY FUNDING COMPONENT RELATED TO POSTGRADUATION PREPARATION; PROVIDING INCREASED BUDGET AUTHORITY FOR CERTAIN SCHOOL DISTRICTS IMPACTED BY HIGH HOUSING COSTS FOR USE IN ADDRESSING THOSE COSTS; REQUIRING THE LEGISLATIVE FISCAL ANALYST TO CREATE A SCHOOL FUNDING DATA DASHBOARD; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 20-3-325, 20-6-326, 20-6-812, 20-7-102, 20-7-1404, 20-7-1503, 20-7-1506, 20-7-1602, 20-9-306, 20-9-324, 20-9-327, 20-9-344, AND 20-9-366, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

WHEREAS, the definition of a “basic system of free quality public elementary and secondary schools” as provided in section 20-9-309, MCA, includes educational programs tailored to the specific needs of students and the qualified and effective teachers, administrators, and other qualified staff needed to implement those programs; and

WHEREAS, section 20-9-309, MCA, includes the requirement that in developing and maintaining a funding formula the Legislature shall consider various educationally relevant factors, including the ability of school districts to attract and retain qualified and effective teachers, administrators, and other qualified staff.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-3-325, MCA, is amended to read:

“20-3-325. Clerk of district. (1) As provided in 20-3-321, the trustees shall employ and appoint a clerk of the district. The clerk of the district shall attend all meetings of the trustees to keep an accurate and permanent record of all the proceedings of each meeting. If the clerk is not present at a meeting, the trustees must have one of their members or a district employee act as clerk for the meeting, and that person shall supply the clerk with a certified copy of the proceedings. The clerk of the district must be the custodian of all documents, records, and reports of the trustees. Unless the trustees provide otherwise, the clerk shall:

(a) keep an accurate and detailed accounting record of all receipts and expenditures of the district in accordance with the financial administration provisions of this title; and

(b) prepare the annual trustees' report required under the provisions of 20-9-213.

(2) The clerk of the district shall provide the county treasurer with a minimum of 30 hours' notice in advance of cash demands to meet payrolls, claims, and electronic transfers that are in excess of \$50,000. If the clerk of the district fails to provide the required 30-hour notice, the district must be assessed a fee equal to any charges demanded by the state investment pool or other permissible investment manager for improperly noticed withdrawal of funds.

(3) *In order to qualify for the payment provided in 20-9-327, a clerk of the district must have a job description that includes performance of the following functions for the district:*

(a) *advise the trustees on financial and operational constraints as outlined by law;*

(b) *serve as a member of the administrative team, working closely with the district superintendent and other administrative staff to align the educational goals and financial stability of the district;*

(c) *assist the trustees in ensuring all district policies comply with local, state, and federal laws;*

(d) *attend trustees' meetings and ensure that a permanent record is maintained as required by law, and, if unable to attend, ensure a qualified designee maintains an accurate permanent record;*

(e) *act as the custodian of all documents, records, and reports of the trustees, including the trustees' report required under 20-9-213;*

(f) *maintain accurate and detailed accounting records of all financial transactions of the district, serving as a liaison during any financial and labor audits, as required; and*

(g) *serve as the election administrator for the district unless the county administers an election at the request of the district."*

Section 2. Section 20-6-326, MCA, is amended to read:

"20-6-326. Procedure for expansion of elementary school district into K-12 school district – trustee resolution. (1) An existing elementary district that is not part of a unified school system or governed by a joint board with a high school district may expand into a K-12 district under the procedures outlined in this section only if the elementary district's ANB, as calculated under the provisions of 20-9-311, is at least 1,000.

(2) The expansion to a K-12 district may be requested by the trustees of an existing elementary district through passage of a resolution that includes the information outlined in 20-6-105(3) and requests the county superintendent to order an election to allow the electors of the elementary district to consider the proposition of expanding the elementary school district into a K-12 district. The trustees of an existing elementary district with an ANB of at least 1,000 may not pass a resolution for expansion more than one time within a 5-year period.

(3) (a) If the proposition for the expansion is approved by the electors of the elementary district and the trustees issue a certificate of election as provided in 20-20-416, for a period of 2 years from the date of the certification of the election the elementary trustees have the authority to propose to the electors of the elementary district:

(i) a transition costs levy pursuant to 20-9-502; and

(ii) a general obligation bond pursuant to Title 20, chapter 9, part 4, for the purpose of building, altering, repairing, buying, furnishing, equipping, purchasing lands for, or obtaining a water supply for a school to accommodate high school students.

(b) The bond limitations pursuant to 20-9-406 imposed on a district proposing a bond under subsection (3)(a) must be calculated on the limits for a K-12 district with the high school ANB calculated by dividing the ANB of the elementary district by 9 and multiplying the result by 4.

(c) A bond approved under subsection (3)(a) becomes a bond of, and may not be issued until the creation of, the K-12 district formed pursuant to subsection (4).

(d) A district that issues a bond under this subsection (3) is eligible for facility reimbursements and advances pursuant to 20-9-366 through 20-9-371 that, until the new high school has enrolled students in all grades and has established an actual ANB for budgeting purposes, must be based on an estimated high school ANB calculated by dividing the ANB of the elementary district by 9 and multiplying the result by 4.

(e) Until the county superintendent orders the creation of a new high school district and attachment of the expanding elementary district to form a new K-12 district pursuant to subsection (4), the existing high school district remains intact for all purposes.

(4) If elementary electors approve a bond pursuant to subsection (3), on July 1 following the approval of the bond the county superintendent shall order the creation of a new high school district with identical boundaries to the expanding elementary district and the immediate attachment of the expanding elementary district to form a K-12 district. The county superintendent shall send a copy of the order to the board of county commissioners and to the trustees of the districts affected by the creation of the district. The trustees of the expanding elementary district must be designated as the trustees of the new K-12 district.

(5) Prior to the first school fiscal year in which the K-12 district will enroll students in a particular high school grade, the K-12 trustees shall prepare operating budgets for the new high school according to the school budgeting provisions of this title, except that:

(a) the ANB for any inaugural grades for the high school program of the K-12 district must be estimated by the trustees and may not exceed the number resulting from dividing the highest budgeted ANB of the elementary program in the preceding 3 fiscal years by 9 and multiplying the result by the number of grades in which the high school will enroll students for the first time in the ensuing school year;

(b) the number of quality educators for the high school program must be estimated by the trustees and may not exceed the number resulting from dividing the ANB estimated under subsection (5)(a) by 10;

(c) the taxable value for budgeting purposes of both the elementary and high school programs of the K-12 district must be based on the taxable value as most recently determined by the department of revenue;

(d) the general fund budget adopted by the trustees must be based on only the basic entitlement, the *total* quality educator *and qualified staff* payment, and the budget components derived from ANB counts; and

(e) the district's BASE aid for the upcoming year must be based on the general fund budget adopted by the trustees for the upcoming school year.

(6) Until the first school year in which the K-12 school district enrolls high school students in all grades and for a period of time not to exceed 6 years following the creation of the K-12 district:

(a) the high school district shall provide high school instruction to high school students of the K-12 district in any grades in which the K-12 district is not enrolling students;

(b) the K-12 district shall be responsible for providing transportation for its students enrolled in the high school district pursuant to subsection (6)(a), may establish a transportation budget for this purpose, and may receive state and county reimbursements under Title 20, chapter 10; and

(c) the K-12 district shall pay the high school district 20% of the per-ANB maximum rate established in 20-9-306 for each of its students enrolled in the high school district with one-half of the amount due by December 31 of the year following the year of attendance and the remainder due no later than June 15 of the year following the year of attendance. The K-12 trustees shall establish a tuition fund and levy to fund these payments.

(7) (a) Bonded indebtedness of the high school district that is outstanding as of the date of creation of the K-12 district must remain secured by and be the indebtedness of the original territory against which the bonds of the high school district were issued and must be paid by tax levies against the original territory.

(b) Bonded indebtedness of the high school district that is issued by the high school district following the creation of the K-12 district is secured by the territory of the high school district as of the date of issuance of the high school district bonds and must be paid by tax levies against the territory of the high school district. However, if bonds of the high school district were approved at a bond election conducted before the creation of the K-12 district, all bonds of the high school district issued by the high school district under the bond election authority must remain secured by and be the indebtedness of the territory of the high school district as of the date the bond authority was approved by voters and must be paid by tax levies against that territory.

(c) Bonded indebtedness of the K-12 district is secured by the territory of the K-12 district as of the date of issuance of the K-12 district bonds and must be paid by tax levies against the territory of the K-12 district.

(d) Bonded indebtedness of the elementary district that is outstanding as of the date of creation of the K-12 district must become upon the date of creation of the K-12 district the bonded indebtedness of the K-12 district and must be secured by the territory of the K-12 district and paid by tax levies against the territory of the K-12 district. The debt service on the bonds must be allocated to the elementary program of the K-12 district.

(e) Bonded indebtedness of the high school district or the K-12 district that is subsequently affected by a later reorganization of the high school district or the K-12 district is governed by the provisions of Title 20, chapter 6, part 4.

(8) When a K-8 district expands to a K-12 district as provided for in this section, a principal, teacher, or other certified employee of the original high school district who has a right of tenure under Montana law must be given preference in hiring for a vacant position in the new K-12 district for which the employee is qualified with the required certification endorsements.”

Section 3. Section 20-6-812, MCA, is amended to read:

“20-6-812. Funding for public charter schools. (1) It is the intent of the legislature that a public charter school receive operational funding on a per-pupil basis that is equitable with the per-pupil funding of the located school district.

(2) (a) For budgeting and funding purposes, when a public charter school is operated by a local school board, a public charter school must be considered a separate budget unit of the located school district, must have its ANB calculated separately from other budget units of the district, and must receive a basic

entitlement calculated separately from other budget units of the district when its ANB is greater than:

- (i) 70 for an elementary school or program;
- (ii) 20 for a middle school or program; or
- (iii) 40 for a high school or program.

(b) When a public charter school district exists, funding of the public charter school district must be distributed as BASE aid, except as provided in subsection (2)(c), at 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator *and qualified staff* payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, 100% of the total data-for-achievement payment, and 140% of the special education allowable cost payment. The total amount of funding received by a public charter school district under this subsection (2)(b) is both the minimum amount and the maximum amount of public funding for the public charter school district.

(c) A public charter school district is not eligible for a basic entitlement unless its ANB is greater than:

- (i) 70 for an elementary school or program;
- (ii) 20 for a middle school or program; or
- (iii) 40 for a high school or program.

(3) Students attending a public charter school governed by a local school board who are not residents of the located school district generate funding in the same manner as other nonresident students attending a school of the located district under an out-of-district attendance agreement pursuant to Title 20, chapter 5, part 3;

(4) A public charter school district is prohibited from charging tuition and fees.

(5) For a public charter school that is not governed by the local school board, the county treasurer of the county in which a public charter school is located shall establish funds for the public charter school separate from the funds of the located school district.

(6) The governing board of a public charter school shall report annually on the financial activities of the public charter school in the manner prescribed in 20-9-213(6).

(7) A public charter school district may obligate the public charter school district to indebtedness and is solely responsible for those debts. A public charter school district is not responsible for any debt service obligations that exist in the located school district.

(8) Nothing in this part may be construed to prohibit any person or organization from providing funding or other assistance for the establishment or operation of a public charter school. The governing board of a public charter school is authorized to accept gifts or donations of any kind made to the public charter school and to expend or use the gifts or donations in accordance with the conditions prescribed by the donor. A gift or donation may not be accepted if the gift or donation is subject to a condition that is contrary to any provision of law or term of the charter contract.

(9) Money received by a public charter school from any source and remaining in the public charter school's accounts at the end of a budget year must remain in the public charter school's accounts for use by the public charter school in subsequent years."

Section 4. Section 20-7-102, MCA, is amended to read:

"20-7-102. Accreditation of schools. (1) The conditions under which each elementary school, each middle school, each junior high school, 7th

and 8th grades funded at high school rates, and each high school operates must be reviewed by the superintendent of public instruction to determine compliance with the standards of accreditation. The accreditation status of each school must then be established by the board of public education upon the recommendation of the superintendent of public instruction. Notification of the accreditation status for the applicable school year or years must be given to each district by the superintendent of public instruction.

(2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that multiyear accreditation may be granted only to schools that are in compliance with 20-4-101.

(3) A nonpublic school may, through its governing body, request that the board of public education accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

(4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in 20-9-306~~(15)(c)(ii)~~.

Section 5. Section 20-7-1404, MCA, is amended to read:

"20-7-1404. Indian language immersion programs -- funding -- flexibility. (1) School districts are encouraged to create Indian language immersion programs and in doing so:

(a) collaborate with other school districts, the Montana digital academy, tribal governments, and tribal colleges;

(b) utilize materials produced in the Montana Indian language preservation pilot program pursuant to section 1, Chapter 410, Laws of 2013;

(c) utilize American Indian language and culture specialists as teachers of language and culture; and

(d) look to existing native language schools in Montana and around the world for guidance and best practices.

(2) In acknowledgment of Article X, section 1, of the Montana constitution, the educationally relevant factors for the school funding formula under 20-9-309(3), and the increased costs associated with language immersion programs, a district creating an Indian language immersion program is entitled to the following in addition to the school funding formula in Title 20, chapter 9:

(a) (i) subject to subsections (3) and (4), for every Indian student participating in an Indian language immersion program, an additional American Indian achievement gap payment, as calculated in 20-9-306, multiplied by 2; and

(ii) for every non-Indian student participating in an Indian language immersion program, an additional Indian education for all payment, as calculated in 20-9-306, multiplied by 2; and

(b) for every full-time American Indian language and culture specialist teaching in an Indian language immersion program, a quality educator *and qualified staff* payment as calculated in 20-9-306.

(3) For a district operating an Indian language immersion program that improves the district's graduation rate for American Indians by 5 percentage points or more from the previous year as measured by the office of public instruction, the multiplier in subsection (2)(a)(i) must be increased to 3.

(4) If the money appropriated for Indian language immersion programs is insufficient to provide the amounts in subsections (2) and (3), the office of public instruction shall prorate the payments accordingly.

(5) The board of public education is encouraged to approve proposed variances to standards of accreditation for Indian language immersion programs when the board finds the proposal to be educationally sound and in alignment with the purpose described in 20-7-1402(2).

(6) The cultural and intellectual property rights from materials developed for an Indian language immersion program belong to the tribe to which the materials relate. Use of the cultural and intellectual property outside of the Indian language immersion program may be negotiated with the tribe.

(7) A district may use payments received pursuant to this section as matching funds for federal or private fund sources to accomplish the purposes of this part.”

Section 6. Section 20-7-1503, MCA, is amended to read:

“20-7-1503. Definitions. As used in this part, the following definitions apply:

(1) “Advanced opportunity” means any course, exam, or experiential, online, or other learning opportunity that is incorporated in a district’s advanced opportunity plan and that is designed to advance each qualifying pupil’s opportunity for postsecondary career and educational success.

(2) “Advanced opportunity aid” means, for each fiscal year, *the following percentages of a district’s total quality educator and qualified staff payment under 20-9-306 in the prior year after subtracting any adjustments to the district’s total quality educator and qualified staff payment made under 20-9-324 and [section 16]:*

(a) for an elementary district, 4.5% ~~of the district’s total quality educator payment defined in 20-9-306 in the prior year;~~

(b) for a high school district, 30% ~~of the district’s total quality educator payment defined in 20-9-306 in the prior year; and~~

(c) for a K-12 district, 18% ~~of the district’s total quality educator payment defined in 20-9-306 in the prior year.~~

(3) “Advanced opportunity plan” means a plan adopted by a board of trustees of a district that provides advanced opportunities for the pupils of the district.

(4) “District” means a school district as defined in 20-6-101.

(5) “Qualifying pupil” means a pupil, as defined in 20-1-101, that is enrolled and admitted by a district qualified for advanced opportunity aid under 20-7-1506(3) who is in grades 6 through 12.”

Section 7. Section 20-7-1506, MCA, is amended to read:

“20-7-1506. Incentives for creation of advanced opportunity programs. (1) A district that satisfies the conditions of subsection (2) and is qualified by the board of public education pursuant to subsection (3) is eligible for the funding and flexibilities in subsections (4) and (5).

(2) (a) To qualify for the funding and flexibilities in subsections (4) and (5), the board of trustees of a district shall submit an application that has been approved by motion of the board and signed by the presiding officer to the board of public education for approval of an advanced opportunity program on a form provided by the superintendent of public instruction.

(b) The school board’s application must include a strategic plan with appropriate planning horizons for implementation, measurable objectives to ensure accountability, and planned strategies to:

(i) develop an advanced opportunity plan for each participating pupil from grades 6 through 12 that fosters individualized pathways for career and postsecondary educational opportunities and that honors individual interests, passions, strengths, needs, and culture and is supported through relationships among teachers, family, peers, the business community, postsecondary education officials, and other community stakeholders;

(ii) embed community-based, experiential, online, and work-based learning opportunities and foster a learning environment that incorporates both face-to-face and virtual connections; and

(iii) ensure equality of educational opportunity to participate by all qualifying pupils of the district.

(3) The board of public education shall:

(a) establish the opening and closing dates for receipt of applications and annual reports;

(b) no later than January 31, qualify for the subsequent school year nonparticipating districts that submit an application meeting the requirements of subsection (2) for the funding in subsection (4) and the flexibilities in subsection (5);

(c) no later than January 31, requalify for the subsequent school year participating districts that submit an annual report demonstrating continued qualification for funding under this section and including a report of progress toward measurable objectives under the district's advanced opportunity plan and any updates to the plan; *and*

~~(d) limit the districts qualified under subsections (3)(b) and (3)(c) based on the appropriation available in the subsequent year and on the order of date received, after which further applications are to be deferred for consideration in a subsequent year, in the order of date received. An application deferred for consideration in a subsequent year due to lack of funding must be annually updated each year after more than 1 full fiscal year has passed from the date of original submission of the application in order for the application to retain its priority by original date received.~~

(e)(d) on or before September 15 of even-numbered years, report to the education interim committee pursuant to 5-11-210 on the progress made by districts operating under approved advanced opportunity plans. The report must address, at a minimum:

(i) the number of pupils benefiting from advanced opportunity aid;

(ii) the number and type of credits and certifications or credentials earned by pupils that have been paid for by the program;

(iii) projected growth in the program and funding needs for the next biennium; and

(iv) any issues with the program reported by pupils, parents, districts, postsecondary institutions, or examination administrators and how these issues are being addressed and whether the issues require legislative action.

(4) The superintendent of public instruction shall provide advanced opportunity aid to each district qualified by the board of public education under subsection (3) by October 1. The aid under this section must be distributed directly to the school district's flexibility fund under 20-9-543.

(5) Advanced opportunity aid may be expended on any qualifying pupil by the district subject to the following conditions:

(a) at least 75% of a district's annual distribution of advanced opportunity aid must be spent or encumbered to address out-of-pocket costs that would otherwise, in the absence of such expenditure, be assumed by a qualifying pupil or the pupil's family as a result of participation in an advanced opportunity. The trustees have full discretion to allocate expenditures among all pupils of the district or any select group of pupils, using any reasonable method they consider appropriate in their full discretion to meet the individual needs of each pupil who pursues an advanced opportunity. The trustees may create free district initiatives of their own that satisfy the conditions of this subsection (5)(a). Permissible expenditures include but are not limited to:

(i) dual credit tuition at any institution under authority of the board of regents;

(ii) exam fees used for postsecondary advancement, placement, or credit, including but not limited to exam fees associated with the ACT, SAT, CLEP, career advancement, international baccalaureate, and advanced placement;

(iii) fees charged by and any out-of-pocket costs of any business providing work-based learning opportunities to a qualifying pupil of the district, including the cost of workers' compensation insurance for work-based learning opportunities;

(iv) exam and other fees of any industry-recognized credential or license for which a qualifying pupil is eligible as a result of participation in an advanced opportunity;

(v) the costs of participation for qualifying pupils in out-of-school enrichment activities that, in the discretion of the trustees, advance the pupil's opportunity for postsecondary career and educational success; and

(vi) the costs of participation for qualifying pupils that are identified as necessary, in the discretion of the district and upon request of a qualifying pupil, to maximize the benefit of an advanced opportunity for a qualifying pupil;

(b) advanced opportunity aid remaining that is not expended or carried forward for the purposes of subsection (5)(a) may be spent by the district to provide any K-12 career and vocational/technical education course offered by the district.

(6) A district qualified for funding under subsection (3) may supplement state funding of advanced opportunity aid with matched expenditures from its adopted adult education budget, not to exceed 25% of the district's advanced opportunity aid. The conditions under subsection (5) apply to any matched expenditures funded under this subsection (6).

(7) The present law base calculated for K-12 local assistance under Title 17, chapter 7, part 1, must include advanced opportunity aid in an amount estimated to be sufficient to provide advanced opportunity aid to all districts of the state based on prior demand. Any shortfalls must be addressed in the same manner as funding of deficiencies in BASE aid under 20-9-351."

Section 8. Section 20-7-1602, MCA, is amended to read:

"20-7-1602. (Temporary) Incentives for creation of transformational learning programs. (1) (a) A school district as defined in 20-6-101 that satisfies the conditions of subsection (2) and is qualified by the board of public education pursuant to subsection (4) is eligible for a 4-consecutive-year provision of the transitional funding and flexibilities in subsections (5) and (6).

(b) A school district may be qualified by the board of public education for no more than one 4-consecutive-year provision of transitional funding and flexibilities in any 8-year period.

(2) To qualify for the transitional funding and flexibilities in subsections (5) and (6), the board of trustees of a district shall submit an application that has been approved by motion of the board of trustees and signed by the presiding officer to the board of public education for approval of a transformational learning program on a form provided by the superintendent of public instruction. The school board's application must:

(a) identify the number of full-time equivalent educators meeting the criteria of 20-9-327(3) who will participate in the district's transformational learning program, with full-time equivalence calculated and reported by the district based on the planned portion of each qualifying educator's full-time equivalent assignment that is dedicated to the district's transformational learning program;

(b) include the district's definition of proficiency within the meaning of the term as used in 20-9-311(4)(d). The definition must be incorporated in the district's policies and must be used for purposes of determining content and course proficiency and other progress, promotion from grade to grade, grades, and graduation for pupils enrolled in the district's transformational learning program. The district must also describe the district's plans for the implementation of proficiency-based learning as defined in 20-7-1601; and

(c) include a strategic plan with appropriate planning horizons for implementation, measurable objectives to ensure accountability, and planned strategies to:

(i) develop a transformational learning plan for each participating pupil that honors individual interests, passions, strengths, needs, and culture and that is rooted in relationships with teachers, family, peers, and community members;

(ii) embed community-based, experiential, online, and work-based learning opportunities and foster a learning environment that incorporates both face-to-face and virtual connections;

(iii) provide effective professional development to assist employees in transitioning to a transformational learning model; and

(iv) ensure equality of educational opportunity to participate by all pupils of the district.

(3) The board of public education shall establish by rule the opening and closing dates for receipt of applications and annual reports.

(4) The board of public education shall:

(a) on an annual basis, qualify districts that submit an application meeting, in the determination of the board or the board's designee, the requirements of subsection (2) for the funding in subsection (5) and the flexibilities in subsection (6) until the annual appropriation is exhausted, after which further applications, including first-time applications and annual reports requesting an expansion of a previously approved plan, are to be deferred for consideration in a subsequent year, in the order of a lottery system draw, if and when additional funds become available for distribution. The lottery system shall assign every first-time application or request for expansion of a previously approved plan a number that will be placed into a lottery system draw that will be done by a third party. The applications will be assigned a position in the order in which the numbers are drawn. The drawing will continue until all districts are on the qualification list for the current year funding or deferred for consideration in a subsequent year.

(b) require each participating school district to submit an annual report demonstrating, in the determination of the board or the board's designee, continued qualification for funding under this section and including a report of progress toward measurable objectives under the school district's transformational learning plan. The school district shall include any decrease or requested increase in the number of participating full-time equivalent educators under subsection (2)(a) for adjustments to its funding. Any increase in funding based on requested increased levels of participation under subsection (2)(a) must be determined in the year in which the request for a funding increase is received and augmented with a lottery system among all first-time applications and annual reports requesting an expansion of a previously approved plan and must be contingent on the availability of funds within any appropriation of the legislature. An application deferred for consideration in a subsequent year due to lack of funding must be annually updated each year after more than 1 full fiscal year has passed from the date of original submission of the application in order for the application to retain its priority by original date received.

(c) report in accordance with 5-11-210 to the education interim committee on the progress made by districts as submitted in the annual report and strategic plan operating under approved and funded transformational learning plans.

(5) (a) For a period of 4 consecutive fiscal years following the fiscal year in which a district is qualified by the board of public education and contingent on satisfying the annual reporting requirements under subsection (4), the superintendent of public instruction shall provide a transformational learning aid payment to the district equivalent to 50% of the quality educator *and qualified staff* payment defined in 20-9-306 from the immediate prior fiscal year multiplied by the number of the district's full-time equivalent educators reported under subsection (2)(a) of this section.

(b) The payment under this subsection (5) must be distributed directly to the school district's flexibility fund established under 20-9-543 by October 1 of each year of funding by the superintendent of public instruction. The money must be expended by the district only for the purposes set forth in the district's approved transformational learning program and within 2 years of the date of distribution.

(c) A school district may not receive more than 25% of the total amount of payments made under this subsection (5).

(6) During each year that a school district remains qualified for funding under subsection (5), the district's trustees may:

(a) if the obligations of transparency set forth in 20-9-116 are met, levy an annual permissive property tax not to exceed 100% of any funds distributed to the district under subsection (5). Proceeds of the levy must be deposited in the district's flexibility fund established under 20-9-543 and must be expended by the district only for the purposes of the district's approved transformational learning plan.

(b) transfer state or local revenue from any budgeted or nonbudgeted fund, other than the debt service fund or retirement fund, to the district's flexibility fund.

(7) (a) Any funds transferred pursuant to subsection (6)(b) may be expended by the district solely for the purposes of implementing the district's approved transformational learning plan. Any transfers of funds are not considered expenditures to be applied against budget authority.

(b) Any transfers that are not expended for the purposes of implementing the district's approved transformational learning plan within 2 full school fiscal years after the funds are transferred must be transferred back to the originating fund from which the revenue was transferred.

(c) The intent of subsection (6)(b) and this subsection (7) is to increase the flexibility and efficiency of school districts without an increase in local taxes. In furtherance of this intent, if transfers of funds are made from any school district fund supported by a nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the amount of funds transferred.

(8) The present law base calculated for K-12 local assistance under Title 17, chapter 7, part 1, must include transformational learning aid as defined in subsection (9).

(9) For the purposes of this title, the following definitions apply:

(a) "Transformational learning" means a flexible system of pupil-centered and proficiency-based learning that is designed to develop the full educational potential of each pupil that:

(i) is customized to address each pupil's strengths, needs, and interests; and

(ii) actively engages each pupil in determining what, how, when, and where each pupil learns.

(b) “Transformational learning aid” means 50% of the quality educator *and qualified staff* payment defined in 20-9-306 multiplied by 10% of the statewide number of full-time equivalent educators from the fiscal year immediately preceding the year to which distribution of transformational aid applies calculated as provided in 20-9-327. (Terminates June 30, 2027--sec. 7, Ch. 402, L. 2019.)”

Section 9. Section 20-9-306, MCA, is amended to read:

“20-9-306. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) “BASE” means base amount for school equity.

(2) “BASE aid” means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district;

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;

(c) the total quality educator *and qualified staff* payment;

(d) the total at-risk student payment;

(e) the total Indian education for all payment;

(f) the total American Indian achievement gap payment;

(g) the total data-for-achievement payment; ~~and~~

~~(h)~~ *the total future ready payment; and*

~~(h)~~ *(i) the special education allowable cost payment.*

(3) “BASE budget” means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator *and qualified staff* payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, 100% of the total data-for-achievement payment, *100% of the total future ready payment*; and 140% of the special education allowable cost payment.

(4) “BASE budget levy” means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) “BASE funding program” means the state program for the equitable distribution of the state’s share of the cost of Montana’s basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the *general fund* BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) “Basic entitlement” means:

(a) for each high school district:

(i) \$343,483 for fiscal year 2024 and \$353,787 for each succeeding fiscal year for school districts with an ANB of 800 or fewer; and

(ii) \$343,483 for fiscal year 2024 and \$353,787 for each succeeding fiscal year for school districts with an ANB of more than 800, plus \$17,175 for fiscal year 2024 and \$17,690 for each succeeding fiscal year for each additional 80 ANB over 800;

(b) for each elementary school district or K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(ii) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,863 for fiscal year 2024 and \$2,949 for each succeeding fiscal year for each additional 25 ANB over 250;

(c) for each elementary school district or K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) for the district's kindergarten through grade 6 elementary program:

(A) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(B) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,863 for fiscal year 2024 and \$2,949 for each succeeding fiscal year for each additional 25 ANB over 250; and

(ii) for the district's approved and accredited junior high school, 7th and 8th grade programs, or middle school:

(A) \$114,493 for fiscal year 2024 and \$117,928 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of 450 or fewer; and

(B) \$114,493 for fiscal year 2024 and \$117,928 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of more than 450, plus \$5,724 for fiscal year 2024 and \$5,896 for each succeeding fiscal year for each additional 45 ANB over 450.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) (a) "Maximum general fund budget" means, *except as provided in subsection (9)(b)*, a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator *and qualified staff* payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, the total data-for-achievement payment, *the total future ready payment*, and the greater of the district's special education allowable cost payment multiplied by:

(a)(i) 175%; or

(b)(ii) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(b) (i) *For a district that meets the legislative goal for base teacher pay under 20-9-324 and has territory within a county in which the median market value for residential properties is greater than 105% of the median county market value for residential properties in the state, the maximum general fund budget is calculated by multiplying the amount calculated in subsection (9)(a) by the percentage by which the county median market value exceeds the median county market value for residential properties in the state divided by 60 and rounded to the nearest hundredth of a percent.*

(ii) *The department of revenue shall calculate the median market values in subsection (9)(b)(i), excluding properties with a market value of \$50,000 or less, in odd-numbered calendar years and report this information to the office of public instruction no later than December 1. The values reported must apply to*

the calculations in subsection (9)(b)(i) and the maximum general fund budgets of districts calculated under this subsection (9) in the 2 school fiscal years beginning the following July 1.

(iii) A district adopting a higher general fund budget under this subsection (9)(b) shall expend the additional budget authority under this subsection (9)(b) on:

(A) housing stipends for employees;

(B) construction or purchase of district-owned housing provided for employees;

(C) rental assistance, including subsidies or discounts on rents on housing for employees;

(D) down-payment assistance, including district provided funds to assist employees with the initial down payment on a primary residence;

(E) shared ownership of housing by the district and employee with an option for the employee to buy out the district's interest over time;

(F) district guaranteed or subsidized housing loans, including payment of discount points on housing loans secured by an employee;

(G) relocation assistance; or

(H) any other financial assistance to employees authorized by the Internal Revenue Code, the purpose of which is to improve employee access to affordable housing.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and within the general fund budget limits established in 20-9-308 and calculated as provided in 20-9-141.

(11) "State's share" means the state funding distributed to school districts in an equitable manner by the state to support the basic elementary and secondary school system as provided in Article X, section 1(3), of the Montana constitution, including:

(a) BASE aid for the school district general fund;

(b) retirement guaranteed tax base aid to the counties to support the countywide school retirement funds that is then distributed to school districts to support employer contributions to the retirement systems;

(c) major maintenance aid for the school district building reserve fund;

(d) transportation reimbursements for the school district transportation fund;

(e) debt service assistance for the school district debt service fund;

(f) technology funding for the school district technology acquisition and depreciation fund;

(g) career and technical education funding for the school district miscellaneous programs fund;

(h) advanced opportunity aid for the school district flexibility fund to help develop the full educational potential of each student;

(i) gifted and talented funding for the school district miscellaneous programs fund; and

(j) any other state funding provided by the legislature to support the basic elementary and secondary school system.

(12) "Total American Indian achievement gap payment" means the payment resulting from multiplying \$235 for fiscal year 2024 and \$242 for each succeeding fiscal year times the number of American Indian students enrolled in the district as provided in 20-9-330.

(13) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.

~~(13)~~(14) “Total data-for-achievement payment” means the payment provided in 20-9-325 resulting from multiplying \$22.89 for fiscal year 2024 and \$23.58 for each succeeding fiscal year by the district’s ANB calculated in accordance with 20-9-311.

(15) “Total future ready payment” means the payment provided in [section 14] resulting from adding:

(a) (i) for a high school district or K-12 school district, the product of 10% of the high school maximum per-ANB payment under this section for every graduate of the district in the school year 2 years prior who achieved the future ready level 1 goal as provided in [section 14]; and

(ii) for an elementary school district or K-12 school district, the product of 10% of the elementary school maximum per-ANB payment under this section for every graduate counted under subsection (15)(a)(i) who was included in the district’s spring enrollment count in the graduate’s 8th grade year.

(b) (i) for a high school district or K-12 school district, the product of 20% of the high school maximum per-ANB payment under this section for every graduate of the district in the school year 2 years prior who achieved the future ready level 2 goal as provided in [section 14]; and

(ii) for an elementary school district or K-12 school district, the product of 20% of the elementary school maximum per-ANB payment under this section for every graduate counted under subsection (15)(b)(i) who was included in the district’s spring enrollment count in the graduate’s 8th grade year.

(c) (i) for a high school district or K-12 school district, the product of 30% of the high school maximum per-ANB payment under this section for every graduate of the district in the school year 2 years prior who achieved the future ready level 3 goal as provided in [section 14]; and

(ii) for an elementary school district or K-12 school district, the product of 30% of the elementary school maximum per-ANB payment under this section for every graduate counted under subsection (15)(c)(i) who was included in the district’s spring enrollment count in the graduate’s 8th grade year.

~~(14)~~(16) “Total Indian education for all payment” means the payment resulting from multiplying \$23.91 for fiscal year 2024 and \$24.63 for each succeeding fiscal year times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

~~(15)~~(17) “Total per-ANB entitlement” means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of \$7,840 for fiscal year 2024 and \$8,075 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of \$6,123 for fiscal year 2024 and \$6,307 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

(i) a maximum rate of \$6,123 for fiscal year 2024 and \$6,307 for each succeeding fiscal year for the first ANB for kindergarten through grade 6,

decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of \$7,840 for fiscal year 2024 and \$8,075 for each succeeding fiscal year for the first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(16)(18) (a) “Total quality educator *and qualified staff* payment” means the payment resulting from multiplying \$3,566 for fiscal year 2024 and \$3,673 for each succeeding fiscal year by *the number of full-time equivalent quality educators and qualified staff as provided in 20-9-327, or the sum of:*

(a) *the number of full-time equivalent educators as provided in 20-9-327; and*

(b) *as provided in 20-9-324, for a school district an educational entity meeting the legislative goal for competitive base pay of teachers, the number of full-time equivalent teachers that were in the first 3 years of the teacher’s teaching career in the previous year by two times the number of full-time equivalent quality educators and qualified staff as provided in 20-9-327.*

(b) *If an educational entity qualifies for enhanced quality educator and qualified staff payments under 20-9-324 in a fiscal year, the entity retains that qualification in subsequent years unless the district fails to qualify for 2 consecutive years. After 2 consecutive years of failure to qualify, an educational entity must reestablish eligibility before the enhanced quality educator and qualified staff payments under 20-9-324 resume for the educational entity.*

(c) *For a school district qualifying for the shared resource incentive under [section 16], the district must receive additions to the total quality educator and qualified staff payment as described in [section 16].*

(17)(19) “Total special education allocation” means the state payment distributed pursuant to 20-9-321 that is the greater of the amount resulting from multiplying \$293.74 for fiscal year 2024 and \$302.55 for each succeeding fiscal year by the statewide current year ANB or the amount of the previous year’s total special education allocation.”

Section 10. Section 20-9-324, MCA, is amended to read:

“20-9-324. Incentives for school districts educational entities meeting legislative goal for competitive base pay of teachers in public school districts – definitions. (1) ~~A district, as defined in 20-6-101~~ *An educational entity eligible for a quality educator and qualified staff payment under 20-9-327; must receive an extra enhanced quality educator and qualified staff payment for certain all quality educators and qualified staff, calculated as provided in 20-9-306(16), if it meets the legislative goal for competitive base pay of teachers in subsection (2).*

(2) The legislative goal for competitive base pay of teachers is a teacher base pay in an educational entity that in the applicable year:

(a) is equal to at least ~~10~~ 11 times ~~as much as~~ the quality educator *and qualified staff* payment amount provided in 20-9-306(16); and

(b) ~~for a school district classified as first class pursuant to Title 20, chapter 6, is not less than 70% of the teacher average pay in the school district is not less than the following percentages of the teacher average pay in the prior fiscal year in the educational entity:~~

(i) *in fiscal year 2026, not less than 62%;*

(ii) *in fiscal year 2027, not less than 64%;*

(iii) *in fiscal year 2028, not less than 66%;*

(iv) *in fiscal year 2029, not less than 68%; and*

(v) in fiscal year 2030 and succeeding fiscal years, not less than 70%.

(3) ~~A district~~ *An educational entity* seeking an incentive for the subsequent school fiscal year under this section shall, by December 1, provide the data necessary, as determined by the superintendent of public instruction, to verify:

(a) that the ~~district~~ *educational entity* has met the legislative goal established in subsection (2) for the current year; and

(b) the number of full-time equivalent teachers that are in the first 3 years of the teacher's teaching career in the current year. The first 3 years of a teacher's teaching career do not include a year of teaching under an emergency authorization pursuant to 20-4-111.

(4) For the purposes of this section, the following definitions apply:

(a) "Educational entity" means:

(i) public school districts, as defined in 20-6-101 and 20-6-701;

(ii) special education cooperatives, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101;

(iv) correctional facilities, as defined in 41-5-103; and

(v) the Montana youth challenge program.

(b) "Full-time equivalent teacher" means a teacher who is contracted for employment for the entire academic year, fulfilling professional responsibilities throughout all periods of the day when the educational entity offers instruction. This includes time spent preparing for classes, delivering instruction, mentoring others, and performing other duties set forth in the teacher's job description, individual contract, or in the collective bargaining agreement governing the teacher's employment.

(a)(c) "Teacher" means an individual who:

(i) holds a current class 1, 2, 4, 5, 6, or 7 license issued by the office of public instruction under rules adopted by the board of public education pursuant to 20-4-102; and

(ii) is employed by ~~a school district~~ *an educational entity* in an instructional position requiring teacher licensure.

(b)(d) "Teacher average pay" means the total compensation paid by ~~a school district~~ *an educational entity* to all of its teachers, not including bonuses, stipends, or extended duty contracts, divided by the total full-time equivalent teachers employed in the district, with full-time equivalence rounded to the nearest tenth by the entity.

(c)(e) "Teacher base pay" means the lowest salary for a full-time equivalent beginning teacher for the current year as incorporated in the ~~district's~~ *educational entity's* collective bargaining agreement or a memorandum of understanding executed between the entity and the applicable union if the teachers' employment is covered by a collective bargaining agreement pursuant to Title 39, chapter 31, or incorporated in ~~district~~ *the entity's* policy if the teachers' employment is not covered by a collective bargaining agreement, not including bonuses, stipends, or extended duty contracts."

Section 11. Section 20-9-327, MCA, is amended to read:

"20-9-327. Quality educator and qualified staff payment. (1) (a) The state shall provide a quality educator ~~payment to and qualified staff payment~~ as calculated in 20-9-306 to the following educational entities:

(i) public school districts, as defined in 20-6-101 and 20-6-701;

(ii) special education cooperatives, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101;

(iv) correctional facilities, as defined in 41-5-103; and

(v) the Montana youth challenge program.

(b) A special education cooperative that has not met the requirements of 20-7-454 may not be funded under the provisions of this section except by approval of the superintendent of public instruction.

(2) (a) The quality educator *and qualified staff* payment for special education cooperatives must be distributed directly to ~~those entities~~ *special education cooperatives* by the superintendent of public instruction.

(b) The quality educator *and qualified staff* payment for the Montana school for the deaf and blind must be distributed to the Montana school for the deaf and blind.

(c) The quality educator *and qualified staff* payment for Pine Hills correctional facility and the facility under contract with the department of corrections for female, as defined in 1-1-201, youth must be distributed to those facilities by the department of corrections.

(d) The quality educator *and qualified staff* payment for the Montana youth challenge program must be distributed to that program by the department of military affairs.

(3) (a) ~~The quality educator payment is calculated as provided in 20-9-306, using number of quality educators~~ is the number of full-time equivalent educators, as reported to the superintendent of public instruction for accreditation purposes in the previous school year, each of whom:

(a)(i) holds a valid certificate under the provisions of 20-4-106 and is employed by an *educational* entity listed in subsection (1) ~~of this section~~ in a position that requires an educator license in accordance with the administrative rules adopted by the board of public education; *or*

(ii) *holds an American Indian language and culture specialist license and is employed by an entity listed in subsection (1) to provide instruction in American Indian language and culture.*

(b) *The number of qualified staff is the number of full-time equivalent staff, each of whom:*

(i) *is employed by an educational entity listed in subsection (1) to provide services to students as a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-24-301, 37-25-302, 37-39-308, 37-39-309, or 37-39-311; and*

(ii) ~~is employed by an entity listed in subsection (1) to provide services to students; or~~

(c) (i) ~~holds an American Indian language and culture specialist license; and~~

(ii) ~~is employed by an entity listed in subsection (1) to provide services to students in an Indian language immersion program pursuant to Title 20, chapter 7, part 14~~

(ii) *is employed by an educational entity listed in subsection (1) and has been issued an emergency authorization of employment under 20-4-111 for that entity for no more than 3 school years; or*

(iii) *is employed by a public school district, as defined in 20-6-101 and 20-6-701, as clerk of the district and performs the functions described in 20-3-325(3)."*

Section 12. Section 20-9-344, MCA, is amended to read:

"20-9-344. Duties of board of public education for distribution of BASE aid. (1) The board of public education shall administer and distribute the BASE aid and state advances for county equalization in the manner and with the powers and duties provided by law. The board of public education:

(a) shall adopt policies for regulating the distribution of BASE aid and state advances for county equalization in accordance with the provisions of law;

(b) may require reports from the county superintendents, county treasurers, and trustees that it considers necessary; and

(c) shall order the superintendent of public instruction to distribute the BASE aid on the basis of each district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the distribution of BASE aid, the board of public education may not increase or decrease the BASE aid distribution to any district on account of any difference that may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

(2) The board of public education may order the superintendent of public instruction to withhold distribution of BASE aid from a district when the district fails to:

(a) submit reports or budgets as required by law or rules adopted by the board of public education; or

(b) maintain accredited status because of failure to meet the board of public education's assurance and performance standards.

(3) Prior to any proposed order by the board of public education to withhold distribution of BASE aid or county equalization money, the district is entitled to a contested case hearing before the board of public education, as provided under the Montana Administrative Procedure Act.

(4) If a district or county receives more BASE aid than it is entitled to, the county treasurer shall return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the superintendent of public instruction.

(5) Except as provided in 20-9-347(2), the BASE aid payment must be distributed according to the following schedule:

(a) from August to November of the school fiscal year, to each district 10% of:

(i) direct state aid;

(ii) the total quality educator *and qualified staff* payment;

(iii) the total at-risk student payment;

(iv) the total Indian education for all payment;

(v) the total American Indian achievement gap payment; and

(vi) the total data-for-achievement payment;

(b) from January to April of the school fiscal year, to each district 10% of:

(i) direct state aid;

(ii) the total quality educator *and qualified staff* payment;

(iii) the total at-risk student payment;

(iv) the total Indian education for all payment;

(v) the total American Indian achievement gap payment; and

(vi) the total data-for-achievement payment;

(c) in December of the school fiscal year, one-half of the guaranteed tax base aid payment to each district or county that has submitted a final budget to the superintendent of public instruction in accordance with the provisions of 20-9-134;

(d) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment to each district or county; and

(e) in June of the school fiscal year, the remaining payment to each district of direct state aid, the total quality educator *and qualified staff* payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, and the total data-for-achievement payment.

(6) The distribution provided for in subsection (5) must occur by the last working day of each month."

Section 13. Section 20-9-366, MCA, is amended to read:

“20-9-366. Definitions. Subject to adjustments pursuant to 20-9-336, as used in 20-9-366 through 20-9-371, the following definitions apply:

(1) “County retirement mill value per elementary ANB” or “county retirement mill value per high school ANB” means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts’ and high school districts’ prior year total per-ANB entitlement amounts.

(2) (a) “District guaranteed tax base ratio” for guaranteed tax base funding for the BASE budget of an eligible district means the taxable valuation in the previous year of all property in the district, except for property value disregarded because of protested taxes under 15-1-409(2) or property subject to the creation of a new school district under 20-6-326, divided by the district’s prior year GTBA budget area.

(b) “District mill value per ANB”, for school facility entitlement purposes, means the taxable valuation in the previous year of all property in the district, except for property subject to the creation of a new school district under 20-6-326, divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district’s prior year total per-ANB entitlement amount.

(3) “Facility guaranteed mill value per ANB”, for school facility entitlement guaranteed tax base purposes, means, subject to adjustment under 20-9-336, the sum of the taxable valuation in the previous year of all property in the state, multiplied by 140% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts’ and high school districts’ prior year total per-ANB entitlement amounts.

(4) “Guaranteed tax base aid budget area” or “GTBA budget area” means the portion of a district’s BASE budget after the following payments are subtracted:

- (a) direct state aid;
- (b) the total data-for-achievement payment;
- (c) the total quality educator *and qualified staff* payment;
- (d) the total at-risk student payment;
- (e) the total Indian education for all payment;
- (f) the total American Indian achievement gap payment; and
- (g) the state special education allowable cost payment.

(5) (a) “Statewide elementary guaranteed tax base ratio” or “statewide high school guaranteed tax base ratio”, for guaranteed tax base funding for the BASE budget of an eligible district, means, subject to adjustment under 20-9-336, the sum of the taxable valuation in the previous year of all property in the state, multiplied by 254% for fiscal year 2024 and by 259% for fiscal year 2025 and each succeeding fiscal year and divided by the prior year statewide GTBA budget area for the state elementary school districts or the state high school districts. For fiscal year 2024 and subsequent fiscal years, the superintendent of public instruction shall increase the multiplier, not to exceed 262%, in this subsection (5)(a) as follows:

(i) for fiscal years 2024 through 2031, if the revenue transferred to the state general fund pursuant to 16-12-111 in the prior fiscal year is at least \$1 million more than the revenue transferred in the fiscal year 2 years prior, then:

(A) multiply the amount of increased revenue transferred to the state general fund pursuant to 16-12-111 in the prior fiscal year above the amount of

revenue transferred in the fiscal year 2 years prior by 0.25, divide the resulting product by \$500,000, and round to the nearest whole number; and

(B) add the number derived in subsection (5)(a)(i)(A) as a percentage point increase to the multiplier used for the prior fiscal year;

(ii) for fiscal years 2024 through 2031, if the revenue transferred to the state general fund pursuant to 16-12-111 in the prior fiscal year is less than \$1 million more than the revenue transferred in the fiscal year 2 years prior, then the multiplier is equal to the multiplier used for the prior fiscal year;

(iii) for fiscal years 2032 and subsequent fiscal years, the multiplier is equal to the multiplier used for fiscal year 2031; and

(iv) for all multiplier increases under this subsection (5)(a), the calculations are made in the year prior to the year in which the increase to the multiplier takes effect and impacts distribution of guaranteed tax base aid.

(b) “Statewide mill value per elementary ANB” or “statewide mill value per high school ANB”, for school retirement guaranteed tax base purposes, means, subject to adjustment under 20-9-336, the sum of the taxable valuation in the previous year of all property in the state, multiplied by 189% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB amount used to calculate the elementary school districts’ and high school districts’ prior year total per-ANB entitlement amounts.”

Section 14. Future ready payment – purpose – calculation – definitions. (1) Beginning in fiscal year 2028, the state shall provide a future ready payment to school districts. The payment is composed of incentive amounts as described in 20-9-306 and this section. The purpose of the payment is to:

(a) expand personalized career and technical education opportunities for middle school and high school pupils;

(b) reduce out-of-pocket costs for pupils and families in support of a pupil’s postsecondary success;

(c) empower pupils to actively engage in forming their postsecondary success path; and

(d) provide expanded flexibility to districts to support the alignment of each pupil’s postsecondary success path with each pupil’s individual interests, passions, strengths, needs, and culture.

(2) The incentive amount of the future ready payment is based on three goal levels:

(a) goal level 1, high school graduates who while in high school earned 15 or more postsecondary or CTE-equivalent credits;

(b) goal level 2, high school graduates who while in high school earned 30 or more postsecondary or CTE-equivalent credits; and

(c) goal level 3, high school graduates who while in high school earned an associate-level degree.

(3) (a) A high school graduate may reach goal levels 1 and 2 using any combination of postsecondary and CTE-equivalent credits.

(b) A high school graduate who achieves a higher future ready goal level does not generate a lower goal level payment.

(4) For the purposes of [section 15] and this section, the following definitions apply:

(a) “CTE-equivalent credit” means the career and technical education (CTE) credit value ascribed by the department of labor and industry as set forth in [section 15].

(b) (i) “Postsecondary credit” means the successful completion of a course of study by a student enrolled in a high school district or K-12 school district that

results in the student's eligibility for transcribed credit within the Montana university system.

(ii) No later than December 1, the commissioner of higher education shall provide to the office of public instruction an annually updated list of the criteria of courses of study, including any completion or examination requirements, that a high school student may take that result in eligibility for transcribed credit at any unit of the Montana university system based on the adopted policies of the board of regents of higher education. If the number of credits differs based on examination results, the list must include these differentiated credit values. The list submitted applies to the achievements of high school graduates from the prior school year.

Section 15. CTE-equivalent credit -- department of labor and industry -- rulemaking. (1) Annually, but not later than December 1, the department of labor and industry shall adopt in rule a list of industry-recognized credentials, combinations of credentials, and work-based learning experiences, and the credit value of each. The list must:

(a) be developed, in part, with input from industry stakeholders, school districts, the office of public instruction, and the office of the commissioner of higher education;

(b) include credentials, combinations of credentials, and work-based learning experiences that lead to enhanced employment opportunities at higher rates of compensation and, when feasible, are stackable toward further credentialing;

(c) note the credit value available in 3-credit increments; and

(d) be applicable from the date of adoption until the date a new list is adopted. However, if a credential or work-based learning experience is removed from the list, a high school student who is already enrolled in a listed course may receive credit for the course through the end of the current school term.

(2) The department of labor and industry shall adopt a process to add recognition for credentials and work-based learning experiences between list updates that are available to any student. The process must:

(a) be set forth in administrative rule, written to include factors for consideration of inclusion and exclusion;

(b) solely allow for a high school district or K-12 school district to submit proposed recognition; and

(c) provide for posting added credentials and work-based learning experiences to the department of labor and industry website.

(3) The department of labor and industry may adopt rules necessary for the implementation of this section.

Section 16. Incentives for school districts based on sharing resources. (1) Beginning in school fiscal year 2027, a school district must receive an enhanced quality educator and qualified staff payment, calculated as provided in 20-9-306 and this section, if it meets the legislative goals for resource sharing as described in this section.

(2) If two or more school districts, or three or more school districts when one district is either an elementary or high school district of a unified school system, cooperate to jointly employ an individual who qualifies as a quality educator or qualified staff under 20-9-327, with each district employing the individual as no less than a 0.33 full-time equivalent employee, that employee must be counted as a 1.0 full-time equivalent employee for the purposes of calculating the total quality educator and qualified staff payment provided in 20-9-306 for each district participating in the joint employment of the individual.

(3) Joint employment for school districts qualifies is met if the districts employ the individual directly or through the terms of a multidistrict agreement as provided in 20-3-363.

Section 17. School funding data dashboard. (1) The legislative fiscal analyst shall develop publicly available and interactive data tools related to school funding. The purpose of these tools is to help Montanans better understand school funding and to assist policymakers in monitoring the status of school funding.

(2) The data tools must:

(a) be based on the most accurate and current financial data available;

(b) allow for longitudinal analysis and disaggregation based on district type, size, and location; and

(c) include data measures related to but not limited to:

(i) the percent of total K-12 revenues provided by the state's share as defined in 20-9-306;

(ii) the percent of total K-12 revenues made up of property tax revenue;

(iii) the equitable distribution of the state's share and the equity of the funding formula;

(iv) base, average, and top teacher and administrator salaries compared regionally, nationally, and by state rankings; and

(v) other data measures as determined by the legislative fiscal analyst or as directed by the legislative finance committee.

(3) In developing the data tools, the legislative fiscal analyst shall collaborate with:

(a) the board of public education;

(b) the office of public instruction;

(c) the governor's office of budget and program planning;

(d) the legislative services division; and

(e) other organizations or entities as determined by the legislative fiscal analyst or as directed by the legislative finance committee.

Section 18. Transition. (1) (a) The legislature intends that the enhanced incentive and flexibility in meeting the legislative goals for competitive teacher base pay under [this act] apply for and are to be distributed in fiscal year 2026 and that the superintendent of public instruction robustly support educational entities in fulfilling the data submission requirements to meet the legislative goals.

(b) For school fiscal year 2026 only:

(i) prior to enhancements under subsection (1)(b)(ii) and applicable for the fiscal year 2026 budget, each school district must have the number of full-time equivalent quality educators and qualified staff increased by 1.

(ii) an educational entity must receive the enhanced incentives based on the entity's commitment, in a format prescribed by the superintendent of public instruction, to meet the revised legislative goals for fiscal year 2026 established in [this act]:

(A) a teacher base salary in fiscal year 2026 that is at least 11 times the fiscal year 2026 quality educator and qualified staff payment amount provided in 20-9-306, as amended in House Bill No. 15; and

(B) a teacher base salary in fiscal year 2026 that is at least 62% of the teacher average salary in fiscal year 2025; and

(iii) the superintendent of public instruction shall allow an educational entity the opportunity to provide this commitment until [the effective date of this act] or May 15, 2025, whichever is later, and adjust the entity's general fund BASE and maximum general fund budget limits and quality educator and qualified staff payment for fiscal year 2026 accordingly and as applicable.

(2) (a) The legislature intends that emergency authorized teachers are included with the quality educator and qualified staff payments distributed beginning in fiscal year 2026.

(b) The legislature intends that eligible district clerks are included with the quality educator and qualified staff payments distributed beginning in fiscal year 2027.

(3) The legislature intends that the increases in maximum general fund budget limits related to housing costs under [this act] apply for fiscal year 2026 and that the department of revenue and the superintendent of public instruction collaborate to meet this intention. As applies to school fiscal year 2026:

(a) the department of revenue shall provide the housing cost data as described in [this act] that it would have provided in December 2023, had [this act] been effective then, to OPI within 10 days of [the effective date of this act]; and

(b) the superintendent of public instruction shall inform a school district of any increase to the district's maximum general fund budget limit for fiscal year 2026 by June 1, 2025.

(4) For 2025 only, the May 1 deadline for the superintendent of public instruction to provide financial information to school districts under 20-9-369 is extended to June 1.

(5) The legislature intends that the future ready payment component provided for in [section 14] be fully operational for and result in initial distribution of funding by the office of public instruction during fiscal year 2028, based on the achievements of high school graduates of school year 2026 during their high school careers.

(6) The legislature intends that the incentive for resource sharing under [section 16] be fully operational for and result in distribution of funding by the office of public instruction during fiscal year 2027.

Section 19. Codification instruction. [Sections 14 through 17] are intended to be codified as an integral part of Title 20, chapter 9, part 3, and the provisions of Title 20, chapter 9, part 3, apply to [sections 14 through 17].

Section 20. Appropriation. There is appropriated from the general fund to the office of public instruction \$100,000 for each fiscal year of the biennium beginning July 1, 2025, for advanced opportunity aid. The money is in addition to the amount appropriated in House Bill No. 2 for advanced opportunity aid.

Section 21. Effective date. [This act] is effective on passage and approval.

Section 22. Applicability. [This act] applies to school years beginning on or after July 1, 2025.

Approved May 8, 2025

CHAPTER NO. 483

[HB 427]

AN ACT REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY OR A LOCAL BUILDING DEPARTMENT TO PROVIDE THE TEXT OR CITATION OF THE SPECIFIC SECTIONS OF THE BUILDING CODE RELIED ON TO DELAY A PERMIT APPLICATION OR STOP A CONSTRUCTION PROJECT; PROVIDING A REMEDY; AND CREATING A CAUSE OF ACTION.

Be it enacted by the Legislature of the State of Montana:

Section 1. Building code section to be provided – department penalty. (1) If the department or local building department delays the issuance of a building permit beyond the standard review period of a complete application, or stops work on a construction project because of noncompliance with the state building code adopted pursuant to 50-60-203 or a building code adopted by a county, city, or town pursuant to 50-60-301, the person applying for a permit or constructing the project may request in writing or electronically that the department or local building department provide the person with the text or citation of the specific sections of the building code applicable to the permit application or construction project that the department or local building department is relying on to cause the delay of the permit application or the stoppage of the construction project.

(2) If a project also requires zoning, subdivision, or other approval, the department or local building department may require those reviews to be completed before determining a building application is complete.

(3) The department or local building department shall provide the text or citations requested under subsection (1) within 7 business days.

(4) If the department or local building department does not respond to the request in accordance with subsection (3), it shall pay to the requesting party a sum of \$50 for each day beyond the required response period until the text or citation is provided to the requesting party.

(5) (a) A person aggrieved by delays associated with the failure to provide the text or citation of the specific sections of the building code as required under subsection (1) may also file a civil action in district court for appropriate relief, including any compensatory damages.

(b) The prevailing party is entitled to reasonable court costs and attorney fees.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 50, chapter 60, part 1, and the provisions of Title 50, chapter 60, part 1, apply to [section 1].

Approved May 8, 2025

CHAPTER NO. 484

[HB 532]

AN ACT GENERALLY REVISING LAWS RELATED TO THE ABUSE, NEGLECT, OR EXPLOITATION OF INCAPACITATED PERSONS AND VULNERABLE ADULTS; PROVIDING FOR A CRIME OF ABUSE, SEXUAL ABUSE, OR NEGLECT; PROVIDING FOR A CRIME OF FAILURE TO REPORT OR FALSE REPORTING; PROVIDING FOR A CRIME OF EXPLOITATION; REVISING CRIMES RELATED TO THEFT OF IDENTITY; PROVIDING DEFINITIONS; AMENDING SECTIONS 44-15-103, 45-6-332, 46-16-222, 46-18-104, 46-18-111, 46-23-502, 46-23-509, AND 52-3-803, MCA; AND REPEALING SECTIONS 45-6-333 AND 52-3-825, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 4], unless the context clearly indicates otherwise, the following definitions apply:

(1) (a) “Abuse” means:

(i) the commission of assault as described in 45-5-201;

(ii) the deprivation of food, shelter, clothing, or services necessary to maintain the physical or mental health of a vulnerable adult without lawful authority; or

(iii) the causing of personal degradation of a vulnerable adult in a place where the vulnerable adult has a reasonable expectation of privacy.

(b) For the purposes of subsection (1)(a)(ii), a declaration made pursuant to 50-9-103 constitutes lawful authority.

(2) "Incapacitated person" has the same meaning as provided in 72-5-101.

(3) "Neglect" means the failure of a person who has assumed legal responsibility or a contractual obligation for caring for a vulnerable adult or who has voluntarily assumed responsibility for the vulnerable adult's care, including an employee of a public or private residential institution, facility, home, or agency, to provide food, shelter, clothing, or services necessary to maintain the physical or mental health of the vulnerable adult.

(4) (a) "Personal degradation" means publication or distribution of a printed or electronic photograph or video of a vulnerable adult when the person publishing or distributing intends to demean or humiliate the vulnerable adult or knows or reasonably should know that the publication or distribution would demean or humiliate a reasonable person.

(b) The term does not include the recording and dissemination of images or video for treatment, diagnosis, regulatory compliance, or law enforcement purposes as part of an investigation or in accordance with a facility or program's confidentiality policy and release of information or consent policy.

(5) "Sexual abuse" means the commission of a sexual offense as described in Title 45, chapter 5, part 5, and Title 45, chapter 8, part 2.

(6) "Vulnerable adult" means a person who:

(a) is 60 years of age or older; or

(b) is 18 years of age or older; and

(i) is a person with a physical or mental impairment that substantially limits or restricts the person's ability to provide for their own care or protection; or

(ii) has a developmental disability as defined in 53-20-102.

Section 2. Abuse, sexual abuse, or neglect of vulnerable adult – penalties. (1) Except as provided in subsection (3), a person who purposely or knowingly abuses, sexually abuses, or neglects a vulnerable adult is guilty of a felony and shall be imprisoned for a term not to exceed 10 years and be fined an amount not to exceed \$10,000, or both.

(2) (a) Except as provided in subsection (3)(a), a person who negligently abuses a vulnerable adult is, on a first conviction, guilty of a misdemeanor and shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.

(b) On a second or subsequent conviction of the conduct described in subsection (2)(a), the person is guilty of a felony and shall be fined an amount not to exceed \$10,000 or be imprisoned for a term not to exceed 10 years, or both.

(3) (a) A person who causes personal degradation to a vulnerable adult in a place where the vulnerable adult has a reasonable expectation of privacy is, on a first conviction, guilty of a misdemeanor and shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both;

(b) On a second or subsequent conviction of the conduct described in subsection (3)(a), the person is guilty of a felony and shall be fined an amount not to exceed \$10,000 or be imprisoned for a term not to exceed 10 years, or both.

(c) A person 18 years of age or older who has a developmental disability as defined in 53-20-102 may not be charged under subsections (2) and (3) of this section.

Section 3. Failure to report abuse or neglect of vulnerable adult – false reporting – penalties. A person is guilty of an offense and on conviction is punishable as provided in 46-18-212 if the person purposely or knowingly:

- (1) fails to make a report required by 52-3-811;
- (2) fails to disclose the contents of a case record or report in violation of 52-3-813;
- (3) gives false information to an adult protective services representative or the county attorney with the purpose to implicate another person;
- (4) reports to adult protective services or the county attorney an offense or other incident within the person's concern knowing that it did not occur; or
- (5) pretends to furnish adult protective services or the county attorney with information relating to an offense or incident when the person knows that the person has no information relating to the offense.

Section 4. Exploitation of incapacitated person or vulnerable adult – penalties. (1) A person commits the offense of exploitation of an incapacitated person or vulnerable adult if the person:

(a) purposely or knowingly obtains or uses or attempts to obtain or use an incapacitated person's or vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the incapacitated person or vulnerable adult of the use, benefit, or possession of funds, assets, or property or to benefit someone other than the incapacitated person or vulnerable adult by means of deception, duress, menace, fraud, undue influence, or intimidation; and

(b) (i) stands in a position of trust or confidence with the incapacitated person or vulnerable adult;

(ii) has a business relationship with the incapacitated person or vulnerable adult; or

(iii) is an attorney in fact under a power of attorney, conservator, or guardian of an incapacitated person or vulnerable adult.

(2) A person convicted of the offense of exploitation of an incapacitated person or vulnerable adult shall be fined an amount not to exceed \$10,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

Section 5. Section 44-15-103, MCA, is amended to read:

“44-15-103. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) “Affirmative authorization” means an action that demonstrates the intentional decision by an individual to opt into the retention of the individual's facial biometric data by a third-party vendor.

(2) “Another jurisdiction” means the federal government, the United States military, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, a federally recognized Indian tribe, or a state other than Montana.

(3) “Continuous facial surveillance” means the monitoring of public places or third-party image sets using facial recognition technology for facial identification to match faces with a prepopulated list of face images. The term includes but is not limited to scanning stored video footage to identify faces in the stored data, real-time scanning of video surveillance to identify faces passing by the cameras, and passively monitoring video footage using facial recognition technology for general surveillance purposes without a particularized suspicion of a specific target.

(4) “Department” means the department of justice.

(5) “Digital driver’s license” means a secure version of an individual’s physical driver’s license or identification card that is stored on the individual’s mobile device.

(6) “Facial biometric data” means data derived from a measurement, pattern, contour, or other characteristic of an individual’s face, either directly or from an image.

(7) (a) “Facial identification” means a computer system that, for the purpose of attempting to determine the identity of an unknown individual, uses an algorithm to compare the facial biometric data of an unknown individual derived from a photograph, video, or image to a database of photographs or images and associated facial biometric data in order to identify potential matches.

(b) The term does not include:

(i) a system used specifically to protect against unauthorized access to a particular location or an electronic device; or

(ii) a system a consumer uses for the consumer’s private purposes.

(8) “Facial recognition service” or “facial recognition technology” means the use of facial identification or facial verification.

(9) “Facial verification” means the automated process of comparing an image or facial biometric data of a known individual to an image database, or to government documentation containing an image of the known individual, to identify a potential match in pursuit of the individual’s identity.

(10) “Law enforcement agency” means:

(a) an agency or officer of the state of Montana or of a political subdivision that is empowered by the laws of this state to conduct investigations or to make arrests; and

(b) an attorney, including the attorney general, who is authorized by the laws of this state to prosecute or to participate in the prosecution of a person who is arrested or who may be subject to a civil action related to or concerning an arrest.

(11) “Motor vehicle division” means the division within the department of justice authorized to issue driver’s licenses.

(12) “Personal information” has the same meaning as in 30-14-1704.

(13) “Public building” means any building that the state or any political subdivision of the state maintains for the use of the public.

(14) “Public employee” means a person employed by a state or local government agency, including but not limited to a peace officer.

(15) “Public official” means a person elected or appointed to a public office that is part of a state or local government agency.

(16) “Public roads and highways of this state” has the same meaning as in 15-70-401.

(17) “Serious crime” means:

(a) a crime under the laws of this state that is a violation of 45-5-102, 45-5-103, 45-5-104, 45-5-106, 45-5-202, 45-5-207, 45-5-210, 45-5-212, 45-5-213, 45-5-220, 45-5-302, 45-5-303, 45-5-401, 45-5-503, 45-5-504(3), 45-5-508, 45-5-602, 45-5-603, 45-5-622, 45-5-625, 45-5-627, 45-5-628, 45-5-702, 45-5-703, 45-5-704, or 45-5-705, or [section 2(1)]; or

(b) a crime under the laws of another jurisdiction that is substantially similar to a crime under subsection (17)(a).

(18) “State or local government agency” means a state, county, or municipal government, a department, agency, or subdivision of a state, county, or municipal government, or any other entity identified in law as a public instrumentality. The term does not include a school district or law enforcement agency.

(19) “Vendor” has the same meaning as in 18-4-123.”

Section 6. Section 45-6-332, MCA, is amended to read:

“45-6-332. Theft of identity. (1) A person commits the offense of theft of identity if the person purposely or knowingly obtains personal identifying information of another person and uses that information for any unlawful purpose, including to obtain or attempt to obtain credit, goods, services, financial information, or medical information in the name of the other person without the consent of the other person.

(2) (a) (i) A person convicted of the offense of theft of identity if no economic benefit was gained or was attempted to be gained or if an economic benefit of less than \$1,500 was gained or was attempted to be gained shall be fined an amount not to exceed \$500. ~~If the victim is a minor, the offender shall be fined an amount not to exceed \$3,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.~~

(ii) A person convicted of a second offense shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(iii) A person convicted of a third or subsequent offense shall be fined an amount not to exceed \$500 and be imprisoned in the county jail for a term of not less than 5 days or more than 1 year.

(iv) *If the victim is a minor, incapacitated person, or vulnerable adult, the offender shall be fined an amount not to exceed \$3,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both, for a conviction under subsections (2)(a)(i) through (2)(a)(iii).*

(b) (i) A person convicted of the offense of theft of identity if an economic benefit that exceeds \$1,500 and does not exceed \$5,000 was gained or was attempted to be gained shall be fined an amount not to exceed ~~\$5,000~~ \$1,500 or be imprisoned in the state prison for a term not to exceed ~~10~~ 3 years, or both. ~~If the victim is a minor, the offender shall be fined an amount not to exceed \$20,000 or be imprisoned in the state prison for a term not to exceed 20 years, or both.~~

(ii) A person convicted of a second offense shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 5 years, or both.

(iii) A person convicted of a third or subsequent offense shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined an amount not to exceed \$5,000.

(iv) *If the victim is a minor, incapacitated person, or vulnerable adult, the offender shall be fined an amount not to exceed \$20,000 or be imprisoned in the state prison for a term not to exceed 20 years, or both, for a conviction under subsections (2)(b)(i) through (2)(b)(iii).*

(c) (i) A person convicted of theft of identity if an economic benefit exceeding \$5,000 in value was gained or attempted to be gained shall be fined an amount not to exceed \$10,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(ii) *If the victim is a minor, incapacitated person, or vulnerable adult, the offender shall be fined an amount not to exceed \$20,000 or be imprisoned in the state prison for a term not to exceed 20 years, or both, for a conviction under subsection (2)(c)(i).*

(3) As used in this section, “personal identifying information” includes but is not limited to the name, date of birth, address, telephone number, driver’s license number, social security number or other federal government identification number, tribal identification card number, place of employment, employee identification number, mother’s maiden name, financial institution account number, credit card number, or similar identifying information relating to a person.

(4) If restitution is ordered, the court may include, as part of its determination of an amount owed, payment for any costs incurred by the victim, including attorney fees and any costs incurred in clearing the credit history or credit rating of the victim or in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising as a result of the actions of the defendant.”

Section 7. Section 46-16-222, MCA, is amended to read:

“46-16-222. Testimony of third person in cases of *abuse, neglect, or exploitation of incapacitated person or vulnerable adult*. (1) Otherwise inadmissible hearsay may be admitted into evidence in a criminal proceeding, as provided in subsections (2) and (3), if:

(a) the declarant of the out-of-court statement is an incapacitated person or vulnerable adult who is:

(i) an alleged victim of:

(A) *abuse, sexual abuse, or neglect of a vulnerable adult pursuant to [section 2] that is the subject of the criminal proceeding;*

(B) *failure to report abuse or neglect of a vulnerable adult or falsely reporting abuse or neglect of a vulnerable adult pursuant to [section 3] that is the subject of the criminal proceeding;*

(C) *exploitation of an incapacitated person or vulnerable adult pursuant to ~~45-6-333~~ [section 4] or theft of identity of an incapacitated person or vulnerable adult pursuant to 45-6-332 that is the subject of the criminal proceeding; or*

(D) *a sexual offense or other crime of violence, including partner or family member assault, that is the subject of the criminal proceeding; or*

(ii) a witness to:

(A) *an alleged abuse, sexual abuse, or neglect of a vulnerable adult pursuant to [section 2] that is the subject of the criminal proceeding;*

(B) *an alleged failure to report abuse or neglect of a vulnerable adult or falsely reporting abuse or neglect of a vulnerable adult pursuant to [section 3] that is the subject of the criminal proceeding;*

(C) *an alleged exploitation of an incapacitated person or vulnerable adult pursuant to ~~45-6-333~~ [section 4] or theft of identity of an incapacitated person or vulnerable adult pursuant to 45-6-332 that is the subject of the criminal proceeding; or*

(D) *a sexual offense or other crime of violence, including partner or family member assault, that is the subject of the criminal proceeding;*

(b) the court finds that the time, content, and circumstances of the statement provide circumstantial guarantees of trustworthiness;

(c) the incapacitated person or vulnerable adult is unavailable as a witness;

(d) the hearsay testimony is offered as evidence of a material fact and is more probative on the point for which it is offered than any other evidence available through reasonable efforts; and

(e) the party intending to offer the hearsay testimony gives sufficient notice to provide the adverse party with a fair opportunity to prepare. The notice must include the content of the statement, the approximate time, date, and location of the statement, the person to whom the statement was made, and the circumstances surrounding the statement that the offering party believes support the statement’s reliability.

(2) The court shall issue findings of fact and conclusions of law setting forth the court’s reasoning on the admissibility of the testimony.

(3) When deciding the admissibility of offered hearsay testimony under subsections (1) and (2), a court shall consider the following:

(a) the attributes of the hearsay declarant, including:

(i) the individual’s age;

- (ii) the individual's ability to communicate verbally;
 - (iii) the individual's ability to comprehend the statements or questions of others;
 - (iv) the individual's ability to tell the difference between truth and falsehood;
 - (v) the individual's motivation to tell the truth, including whether the individual understands the general obligation to speak truthfully and not fabricate stories;
 - (vi) whether the individual possessed sufficient mental capacity at the time of the alleged incident to create an accurate memory of the incident; and
 - (vii) whether the individual possesses sufficient memory to retain an independent recollection of the events at issue;
 - (b) information regarding the witness who is relating the individual's hearsay statement, including:
 - (i) the witness's relationship to the individual;
 - (ii) whether the relationship between the witness and the individual has an impact on the trustworthiness of the individual's hearsay statement;
 - (iii) whether the witness has a motive to fabricate or distort the individual's statement; and
 - (iv) the circumstances under which the witness heard the individual's statement, including the timing of the statement in relation to the incident at issue and the availability of another person in whom the individual could confide;
 - (c) information regarding the individual's statement, including:
 - (i) whether the statement contains knowledge not normally attributed to an individual of the declarant's age;
 - (ii) whether the statement was spontaneous;
 - (iii) the suggestiveness of statements by other persons to the individual at the time that the individual made the statement;
 - (iv) if statements were made by the individual to more than one person, whether those statements were consistent;
 - (v) the nearness in time of the statement to the incident at issue; and
 - (vi) whether the statement is testimonial or nontestimonial in character; and
 - (d) other considerations that in the judge's opinion may bear on the admissibility of the individual's hearsay testimony.
- (4) As used in this section, the following definitions apply:
- (a) "Incapacitated person" has the meaning provided in 72-5-101.
 - (b) "Vulnerable adult" has the meaning provided in 52-3-803."
- Section 8.** Section 46-18-104, MCA, is amended to read:
- "46-18-104. Definitions.** As used in 46-18-101, 46-18-105, 46-18-201, 46-18-225, and this section, unless the context requires otherwise, the following definitions apply:
- (1) "Community corrections" or "community corrections facility or program" means a community corrections facility or program as defined in 53-30-303.
 - (2) (a) "Crime of violence" means:
 - (i) a crime in which an offender uses or possesses and threatens to use a deadly weapon during the commission or attempted commission of a crime;
 - (ii) a crime in which the offender causes serious bodily injury or death to a person other than the offender; or
 - (iii) an offense under:
 - (A) 45-5-215;
 - (B) 45-5-502 for which the maximum potential sentence is life imprisonment or imprisonment in a state prison for a term exceeding 1 year;
 - (C) 45-5-503, except as provided in subsection (2)(b) of this section;

(D) 45-5-507 if the victim is under 16 years of age and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing the offense;

(E) 45-5-508;

(F) 45-5-702;

(G) 45-5-703;

(H) 45-5-705;

(I) 45-5-706; or

(J) 45-5-711; or

(K) [section 2(1)].

(b) In a prosecution under 45-5-503, if the sexual intercourse was without consent based solely on the victim's age, the victim willingly participated, and the offender is not more than 3 years older than the victim, the offense is not a crime of violence for purposes of this section.

(3) "Nonviolent felony offender" means a person who has entered a plea of guilty or nolo contendere to a felony offense other than a crime of violence or who has been convicted of a felony offense other than a crime of violence.

(4) "Restorative justice" has the meaning provided in 44-7-302."

Section 9. Section 46-18-111, MCA, is amended to read:

"46-18-111. Presentence investigation – when required – definition. (1) (a) (i) Upon the acceptance of a plea or upon a verdict or finding of guilty to one or more felony offenses, except as provided in subsection (1)(d), the district court may request and direct the probation and parole officer to make a presentence investigation and report unless an investigation and report has been provided to the court prior to the plea or the verdict or finding of guilty.

(ii) Unless additional information is required under subsection (1)(b), (1)(c), (1)(d), or (1)(e) or unless more time is required to allow for victim input, a preliminary or final presentence investigation and report, if requested, must be available to the court within 30 business days of the plea or the verdict or finding of guilty.

(iii) If a presentence investigation report has been requested, the district court shall consider the presentence investigation report prior to sentencing.

(b) (i) If the defendant was convicted of an offense under 45-5-502, 45-5-503, 45-5-504, 45-5-507, 45-5-508, 45-5-601(3), 45-5-625, 45-5-627, 45-5-705, 45-5-706, 45-5-711, [section 2(1)], or 45-8-218 or if the defendant was convicted under 46-23-507 and the offender was convicted of failure to register as a sexual offender pursuant to Title 46, chapter 23, part 5, the court shall order a psychosexual evaluation of the defendant unless the defendant is sentenced under 46-18-219. The evaluation must include:

(A) a recommendation as to treatment of the defendant in the least restrictive environment, considering the risk the defendant presents to the community and the defendant's needs;

(B) an identification of the level of risk the defendant presents to the community using the standards established in 37-1-139; and

(C) the defendant's needs.

(ii) Unless a psychosexual evaluation has been provided to the court prior to the plea or the verdict or finding of guilty, the evaluation must be completed by a sexual offender evaluator selected by the court and who has a license endorsement as provided for in 37-1-139. The psychosexual evaluation must be made available to the county attorney's office, the defense attorney, the probation and parole officer, and the sentencing judge.

(iii) All costs related to the evaluation, including an evaluation ordered by the court as allowed in subsection (1)(b)(ii), must be paid by the defendant.

If the defendant is determined by the district court to be indigent, all costs related to the evaluation, including an evaluation ordered by the court as allowed in subsection (1)(b)(ii), are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9. The district court may order subsequent psychosexual evaluations at the request of the county attorney. The requestor of any subsequent psychosexual evaluations is responsible for the cost of the evaluation.

(c) (i) If the defendant was convicted of an offense under 45-5-212(2)(b) or (2)(c), the investigation may include a mental health evaluation of the defendant and a recommendation as to treatment of the defendant in the least restrictive environment, considering the risk the defendant presents to the community and the defendant's needs.

(ii) The evaluation must be completed by a qualified psychiatrist, licensed clinical psychologist, advanced practice registered nurse, licensed clinical social worker, licensed clinical professional counselor, licensed marriage and family therapist, or other professional with comparable credentials acceptable to the department of labor and industry. The mental health evaluation must be made available to the county attorney's office, the defense attorney, the probation and parole officer, and the sentencing judge.

(iii) All costs related to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9.

(d) If the defendant is convicted of a violent offense, as defined in 46-23-502, or if the defendant is convicted of a crime for which a victim or entity may be entitled to restitution, and the amount of restitution is not contained in a plea agreement, the court shall order a presentence investigation.

(e) When, pursuant to 46-14-311, the court has ordered a presentence investigation and a report pursuant to this section, the mental evaluation must be attached to the presentence investigation report and becomes part of the report. The report must be made available to persons and entities as provided in 46-18-113.

(2) The district court may order a presentence investigation for a defendant convicted of a misdemeanor only if the defendant was convicted of a misdemeanor that the state originally charged as a sexual or violent offense as defined in 46-23-502.

(3) The defendant shall pay to the department of corrections a \$50 fee at the time that the report is completed, unless the court determines that the defendant is not able to pay the fee within a reasonable time. The fee may be retained by the department and used to finance contracts entered into under 53-1-203(5).

(4) For the purposes of 46-18-112 and this section, "probation and parole officer" means:

(a) a probation and parole officer who is employed by the department of corrections pursuant to 46-23-1002; or

(b) an employee of the department of corrections who has received specific training or who possesses specific expertise to make a presentence investigation and report but who is not required to be licensed as a probation and parole officer by the public safety officer standards and training council created in 2-15-2029."

Section 10. Section 46-23-502, MCA, is amended to read:

"46-23-502. Definitions. As used in Title 45, chapter 5, part 3 and parts 5 through 7, 46-18-255, and this part, the following definitions apply:

(1) "Department" means the department of corrections provided for in 2-15-2301.

(2) "Foreign offenses" means a conviction for a sexual offense involving any of the conduct listed in this section that was obtained under the laws of Canada, the United Kingdom, Australia, or New Zealand, or under the laws of any foreign country when the United States department of state, in its country reports on human rights practices, has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction was obtained.

(3) "Mental abnormality" means a congenital or acquired condition that affects the mental, emotional, or volitional capacity of a person in a manner that predisposes the person to the commission of one or more sexual offenses to a degree that makes the person a menace to the health and safety of other persons.

(4) "Municipality" means an entity that has incorporated as a city or town.

(5) "Personality disorder" means a personality disorder as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders adopted by the American psychiatric association.

(6) "Predatory sexual offense" means a sexual offense committed against a stranger or against a person with whom a relationship has been established or furthered for the primary purpose of victimization.

(7) "Registration agency" means:

(a) if the offender resides in a municipality, the police department of that municipality; or

(b) if the offender resides in a place other than a municipality, the sheriff's office of the county in which the offender resides.

(8) (a) "Residence" means the location at which a person regularly resides, regardless of the number of days or nights spent at that location, that can be located by a street address, including a house, apartment building, motel, hotel, or recreational or other vehicle.

(b) The term does not mean a homeless shelter.

(9) "Sexual offender evaluator" means a person qualified under rules established by the department to conduct psychosexual evaluations of sexual offenders and sexually violent predators.

(10) (a) "Sexual offense" means any violation, attempt, solicitation, or conspiracy to commit a violation, or flight after the attempt or commission of the following:

(i) 45-5-301, unlawful restraint, if the victim is less than 18 years of age and the offender is not a parent of the victim;

(ii) 45-5-302, kidnapping, if the victim is less than 18 years of age and the offender is not a parent of the victim;

(iii) 45-5-303, aggravated kidnapping, if the victim is less than 18 years of age and the offender is not a parent of the victim;

(iv) 45-5-502(2)(c), (3), and (4), sexual assault;

(v) 45-5-503, sexual intercourse without consent;

(vi) 45-5-504(2)(c) and (3), indecent exposure;

(vii) 45-5-507, incest, if the victim is less than 18 years of age and the offender is 3 or more years older than the victim, or if the victim is 12 years of age or younger and the offender is 18 years of age or older at the time of the offense;

(viii) 45-5-508, aggravated sexual intercourse without consent;

(ix) 45-5-601(2)(b) and (3), prostitution;

(x) 45-5-622(2)(b)(ii), endangering the welfare of children;

(xi) 45-5-625, sexual abuse of children;

- (xii) 45-5-627(1)(a), ritual abuse of a minor;
- (xiii) 45-5-705, patronizing a victim of sex trafficking;
- (xiv) 45-5-706, aggravated sex trafficking;
- (xv) 45-5-711, child sex trafficking;
- (~~xvi~~) [section 2(1)], sexual abuse of a vulnerable adult;
- (~~xvi~~)(xvii) 45-8-218, deviate sexual conduct; or

(~~xvii~~)(xviii) any violation of a law of another state, a tribal government, the federal government, or the military or a foreign entity that is reasonably equivalent to a violation listed in subsections (10)(a)(i) through (10)(a)(~~xvi~~) (10)(a)(xvii) or for which the offender was required to register as a sexual offender after an adjudication or conviction.

(b) The term does not include the exceptions provided for in 45-5-501, 45-5-502, and 45-5-503.

(11) "Sexual or violent offender" means a person who has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual or violent offense.

(12) "Sexually violent predator" means a person who:

(a) has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual offense and who suffers from a mental abnormality or a personality disorder that makes the person likely to engage in predatory sexual offenses; or

(b) has been convicted of a sexual offense against a victim 12 years of age or younger and the offender is 18 years of age or older.

(13) "Transient" means an offender who has no residence.

(14) "Violent offense" means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of:

(i) 45-5-102, deliberate homicide;

(ii) 45-5-103, mitigated deliberate homicide;

(iii) 45-5-202, aggravated assault;

(iv) 45-5-206 (third or subsequent offense), partner or family member assault;

(v) 45-5-210(1)(b), (1)(c), or (1)(d), assault on a peace officer or judicial officer;

(vi) 45-5-212, assault on a minor;

(vii) 45-5-213, assault with a weapon;

(viii) 45-5-215, strangulation of a partner or family member;

(ix) 45-5-302 (if the victim is not a minor), kidnapping;

(x) 45-5-303 (if the victim is not a minor), aggravated kidnapping;

(xi) [section 2(1)], abuse or sexual abuse of a vulnerable adult;

(~~xi~~)(xii) 45-5-401, robbery;

(~~xii~~)(xiii) 45-6-103, arson; or

(~~xiii~~)(xiv) 45-9-132, operation of unlawful clandestine laboratory; or

(b) any violation of a law of another state, a tribal government, the federal government, or the military or a foreign entity reasonably equivalent to a violation listed in subsection (14)(a)."

Section 11. Section 46-23-509, MCA, is amended to read:

"46-23-509. Psychosexual evaluations and sexual offender designations. (1) Prior to sentencing of a person convicted of a sexual offense, a sexual offender evaluator who has a license endorsement as provided for in 37-1-139 shall provide the court with a psychosexual evaluation report recommending one of the following levels of designation for the offender:

(a) level 1, the risk of a repeat sexual offense is low;

(b) level 2, the risk of a repeat sexual offense is moderate;

(c) level 3, the risk of a repeat sexual offense is high, there is a threat to public safety, and the sexual offender evaluator believes that the offender is a sexually violent predator.

(2) Upon sentencing the offender, the court shall:

(a) review the psychosexual evaluation report, any statement by a victim, and any statement by the offender;

(b) designate the offender as level 1, 2, or 3; and

(c) designate a level 3 offender as a sexually violent predator.

(3) An offender designated as a level 2 offender or given a level designation by another state, the federal government, or the department under subsection (5) that is determined by the court to be similar to level 2 may petition the sentencing court or the district court for the judicial district in which the offender resides to change the offender's designation if the offender has enrolled in and successfully completed the treatment phase of either the prison's sexual offender treatment program or of an equivalent program approved by the department. After considering the petition, the court may change the offender's risk level designation if the court finds by clear and convincing evidence that the offender's risk of committing a repeat sexual offense has changed since the time sentence was imposed. The court shall impose one of the three risk levels specified in this section.

(4) If, at the time of sentencing, the sentencing judge did not apply a level designation to a sexual offender who is required to register under this part and who was sentenced prior to October 1, 1997, the department shall designate the offender as level 1, 2, or 3 when the offender is released from confinement.

(5) If an offense is covered by ~~46-23-502(10)(a)(xvii)~~ 46-23-502(10)(a)(xviii), the offender registers under 46-23-504(1)(c), and the offender was given a risk level designation after conviction by another state or the federal government, the department of justice may give the offender the risk level designation assigned by the other state or the federal government. All offenders convicted in another state or by the federal government who are not currently under the supervision of the department or the youth court and were not given a risk level designation after conviction shall provide to the department of justice all prior risk assessments and psychosexual evaluations done to evaluate the offender's risk to reoffend. Any offender without a risk assessment or psychosexual evaluation shall, at the offender's expense, undergo a psychosexual evaluation with a sexual offender evaluator who has a license endorsement as provided for in 37-1-139. The results of the psychosexual evaluation may be requested by the attorney general or a county attorney for purposes of petitioning a district court to assign a risk level designation.

(6) The lack of a fixed residence is a factor that may be considered by the sentencing court or by the department in determining the risk level to be assigned to an offender pursuant to this section.

(7) Upon obtaining information that indicates that a sexual offender who is required to register under this part does not have a level 1, 2, or 3 designation, the offender, the attorney general, the county attorney that prosecuted the offender and obtained a conviction for a sexual offense, or the county attorney for the county in which the offender resides may, at any time, petition the district court that sentenced the offender for a sexual offense or the district court for the judicial district in which the offender resides to designate the offender as level 1, 2, or 3. Upon the filing of the petition, the court may order a psychosexual evaluation report at the petitioner's expense, or order that the results of all prior psychosexual evaluations be provided to all parties. The court shall provide the offender with an opportunity for a hearing prior to designating the offender. The petitioner shall provide the offender, the

attorney general, and the county attorney that prosecuted the offender with notice of the petition and notice of the hearing. As provided in 46-23-506(2)(d), petitions for relief from registration under this part must be filed in the appropriate Montana district court. Orders or other documents granting relief from registration requirements that originated in other jurisdictions are not valid in Montana.”

Section 12. Section 52-3-803, MCA, is amended to read:

“52-3-803. Definitions. As used in this part, the following definitions apply:

(1) “Abuse” means:

(a) ~~the infliction of physical or mental injury~~ *the commission of assault as described in 45-5-201;*

(b) the deprivation of food, shelter, clothing, or services necessary to maintain the physical or mental health of a vulnerable adult without lawful authority. A declaration made pursuant to 50-9-103 constitutes lawful authority.

(c) the causing of personal degradation of a vulnerable adult in a place where the vulnerable adult has a reasonable expectation of privacy.

(2) “Department” means the department of public health and human services provided for in 2-15-2201.

(3) “Exploitation” means:

(a) the unreasonable use of a vulnerable adult or of a power of attorney, conservatorship, or guardianship with regard to a vulnerable adult in order to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of or interest in the vulnerable adult’s money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the vulnerable adult of the ownership, use, benefit, or possession of or interest in the vulnerable adult’s money, assets, or property;

(b) an act taken by a person who has the trust and confidence of a vulnerable adult to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of or interest in the vulnerable adult’s money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the vulnerable adult of the ownership, use, benefit, or possession of or interest in the vulnerable adult’s money, assets, or property;

(c) the unreasonable use of a vulnerable adult or of a power of attorney, conservatorship, or guardianship with regard to a vulnerable adult done in the course of an offer or sale of insurance or securities in order to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of the vulnerable adult’s money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the vulnerable adult of the ownership, use, benefit, or possession of the vulnerable adult’s money, assets, or property.

(4) “Incapacitated person” has the meaning provided in 72-5-101.

(5) “Long-term care facility” has the meaning provided in 50-5-101.

(6) ~~“Mental injury” means an identifiable and substantial impairment of a person’s intellectual or psychological functioning or well-being.~~

(7)(6) “Neglect” means the failure of a person who has assumed legal responsibility or a contractual obligation for caring for a vulnerable adult or who has voluntarily assumed responsibility for the a vulnerable adult’s care, including an employee of a public or private residential institution, facility, home, or agency, to provide food, shelter, clothing, or services necessary to maintain the physical or mental health of the vulnerable adult.

(8)(7) “Personal degradation” means publication or distribution of a printed or electronic photograph or video of a vulnerable adult when the person publishing or distributing intends to demean or humiliate the vulnerable adult or knows or reasonably should know that the publication or distribution would demean or humiliate a reasonable person. Personal degradation does not include the recording and dissemination of images or video for treatment, diagnosis, regulatory compliance, or law enforcement purposes, as part of an investigation, or in accordance with a facility or program’s confidentiality policy and release of information or consent policy.

(9) “Physical injury” means death, permanent or temporary disfigurement, or impairment of any bodily organ or function.

(10)(8) “Sexual abuse” means the commission of ~~sexual assault, sexual intercourse without consent, indecent exposure, deviate sexual conduct, incest, or sexual abuse of children~~ a sexual offense as described in Title 45, chapter 5, part 5, and Title 45, chapter 8, part 2.

(11)(9) “Vulnerable adult” means a person who:

- (a) is 60 years of age or older; or
- (b) is 18 years of age or older and:
 - (i) is a person with a physical or mental impairment that substantially limits or restricts the person’s ability to provide for their own care or protection; or
 - (ii) has a developmental disability as defined in 53-20-102.”

Section 13. Repealer. The following sections of the Montana Code Annotated are repealed:

45-6-333. Exploitation of incapacitated person or vulnerable adult.

52-3-825. Penalties.

Section 14. Codification instruction. [Sections 1 through 4] are intended to be codified as a new part of Title 45, chapter 5, and the provisions of Title 45, chapter 5, apply to [sections 1 through 4].

Approved May 8, 2025

CHAPTER NO. 485

[HB 533]

AN ACT REQUIRING INSURERS THAT USE A WILDFIRE RISK SCORE TO PROVIDE THE REQUESTER WITH CERTAIN INFORMATION TO ENHANCE TRANSPARENCY; PROVIDING TIMELINES FOR THE INSURER TO RESPOND; AND PROVIDING DEFINITIONS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Wildfire risk score in residential property evaluation in rating. (1) An insurer that uses a wildfire risk score in connection with property evaluation in rating of residential real property shall, on the request of an insured, the insured’s insurance producer, or an applicant for residential property insurance coverage for the wildfire risk score, provide the following information to the insured or the applicant to enhance transparency:

- (a) the current wildfire risk score of the residential property;
- (b) the range of possible wildfire risk scores under the model used;
- (c) the name of the person or entity that created the wildfire risk score;
- (d) the date on which the wildfire risk score was created; and
- (e) the key factors that adversely affected the wildfire risk score of the residential property.

(2) An insurer shall provide to a property owner the information referred to in subsection (1) by no later than 30 days after receiving a request for the information.

(3) For the purposes of this section, the following definitions apply:

(a) (i) “Insurer” means admitted insurers in this state.

(ii) The term does not apply to nonadmitted insurers.

(b) “Wildfire risk score” means a numerical value, rating, or categorization derived from a statistical tool, modeling system, algorithm, or other process that is used to measure or assess wildfire risk for a residential property for the purposes of property evaluation in rating.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 33, chapter 16, and the provisions of Title 33, chapter 16, apply to [section 1].

Approved May 8, 2025

CHAPTER NO. 486

[HB 534]

AN ACT PROVIDING THAT AN ELIGIBLE WATER AND/OR SEWER DISTRICT MAY CONNECT TO A WATER OR WASTEWATER SYSTEM BEYOND ITS RATED CAPACITY IF AUTHORIZED BY AN APPROVED DEVELOPMENT PLAN; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 75-6-102, 75-6-104, 75-6-130, 76-3-103, 76-3-507, 76-4-102, 76-4-120, AND 76-8-101, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 75-6-102, MCA, is amended to read:

“75-6-102. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) “Applicant” means a person who submits plans and specifications for approval pursuant to this part.

(2) “Board” means the board of environmental review provided for in 2-15-3502.

(3) “Certified source water protection area” means an area certified by the department that identifies the surface and subsurface area surrounding a source of water for a public water supply system through which contaminants may move toward and reach the source of supply.

(4) “Community water system” means a public water supply system that serves at least 15 service connections used by year-round residents or that regularly serves at least 25 year-round residents.

(5) “Contamination” means impairment of the quality of state waters by sewage, industrial waste, or other waste creating a hazard to human health.

(6) “Cross-connection” means a connection between a public water supply system and another water supply system, either public or private, or a wastewater or sewerline or other potential source of contamination so that a flow of water into or contamination of the public water supply system from the other source of water or contamination is possible.

(7) “Department” means the department of environmental quality provided for in 2-15-3501.

(8) “Drainage” means rainfall, surface, and subsoil water.

(9) “Eligible county water and/or sewer district” means a county water district, a county sewer district, or a county water and sewer district that:

(a) is incorporated under 7-13-2203;

(b) is operated in compliance with the discharge permitting requirements of Title 75, chapter 5, and this chapter; and

(c) employs or retains a professional engineer.

(9)(10) "Industrial waste" means any waste substance from the processes of business or industry or from the development of a natural resource, together with any sewage that may be present.

(10)(11) "Maximum contaminant level" means the maximum permissible level of a contaminant in water that is delivered to a user of a public water supply system.

(11)(12) "Other waste" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

(12)(13) "Person" means an individual, firm, partnership, company, association, corporation, city, town, local government entity, federal agency, or any other governmental or private entity, whether organized for profit or not.

(13)(14) (a) "Pollution" means contamination or other alteration of the physical, chemical, or biological properties of state waters that exceeds that which is permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor or the discharge or introduction of a liquid, gaseous, solid, radioactive, or other substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

(b) A discharge that is authorized under the pollution discharge permit rules of the board is not pollution under this chapter.

(14)(15) "Public sewage system" means a system of collection, transportation, treatment, or disposal of sewage that serves 15 or more families or 25 or more persons daily for any 60 or more days in a calendar year.

(15)(16) "Public water supply system" means a system for the provision of water for human consumption from a community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that has at least 15 service connections or that regularly serves at least 25 persons daily for any 60 or more days in a calendar year.

(16)(17) "Reclaimed wastewater" means wastewater that is treated by a public sewage system for reuse for private, public, or commercial purposes.

(17)(18) "Safe Drinking Water Act" means 42 U.S.C. 300f and regulations set forth in 40 CFR, parts 141 and 142.

(18)(19) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings, together with ground water infiltration and surface water present.

(19)(20) "Source water protection program" means a program administered by the department to certify source water protection delineation and assessment reports and source water protection plans and to review source water protection ordinances.

(20)(21) "State waters" means a body of water, irrigation system, or drainage system, either surface or underground.

(21)(22) "Transient noncommunity water system" means a public water supply system that is not a community water system and that does not regularly serve at least 25 of the same persons for at least 6 months a year."

Section 2. Section 75-6-104, MCA, is amended to read:

“75-6-104. Duties of department. (1) The department has general supervision over all state waters that are directly or indirectly being used by a person for a public water supply system, for domestic purposes, or as a source of ice.

(2) The department shall, subject to the provisions of 75-6-116 and as provided in 75-6-131, adopt rules and standards concerning:

(a) maximum contaminant levels for waters that are or will be used for a public water supply system;

(b) fees, as described in 75-6-108, for services rendered by the department;

(c) monitoring, recordkeeping, and reporting by persons who own or operate public water supply systems;

(d) requiring public notice to all users of a public water supply system when a person has been granted a variance or exemption or is in violation of this part or a rule or order issued pursuant to this part;

(e) the siting, construction, operation, and modification of a public water supply system or public sewage system, including requirements to remedy:

(i) defects in the design, operation, or maintenance of a public water supply system or public sewage system in order to prevent or correct introduction of contamination into water used for a public water supply system, for domestic purposes, or as a source of ice;

(ii) fecal contamination in water used by a public water supply system; or

(iii) failure or malfunction of the sources, treatment, storage, or distribution portion of a public water supply system in order to prevent or correct introduction of contamination into water used for a public water supply system, for domestic purposes, or as a source of ice;

(f) the review of the technical, managerial, and financial capacity of a proposed public water supply system or public sewage system, as necessary to ensure the capability of the system to meet the requirements of this part;

(g) the collection and analysis of samples of water used for drinking or domestic purposes;

(h) the issuance of variances and exemptions as authorized by the federal Safe Drinking Water Act and this part;

(i) administrative enforcement procedures and administrative penalties authorized under this part;

(j) standards and requirements for the review and approval of programs that may be voluntarily submitted by suppliers of public water supply systems to prevent water supply contamination from a cross-connection, including provisions to exempt cross-connections from the standards and requirements if all connected systems are department-approved public water supply systems;

(k) (i) allowable uses of reclaimed wastewater and classification of those uses;

(ii) treatment, monitoring, recordkeeping, and reporting standards and requirements tailored to each classification that must be met by the public sewage system to protect the uses of the reclaimed wastewater and any receiving water;

(iii) prohibition of reclaimed wastewater uses that are not allowable under subsection (2)(k)(i) or for which the reclaimed wastewater has not been treated in compliance with rules adopted under subsection (2)(k)(ii); and

(iv) a requirement that an applicant who proposes to use reclaimed wastewater pursuant to this subsection (2)(k) has obtained any necessary authorizations required under Title 85 from the department of natural resources and conservation; and

(l) any other requirement necessary for the protection of public health as described in this part.

(3) Department rules must provide for the following:

(a) except as provided in 75-6-131, a water supply or water distribution facility reviewed and approved by the department is not subject to changes in department design and construction criteria for a period of 36 months after written approval of the facility is issued by the department;

(b) except for facilities subject to permit requirements under Title 75, chapter 5, part 4, and except as provided under rules adopted pursuant to 75-6-131, a system of water supply, drainage, wastewater, or sewage reviewed and approved under this section is not subject to changes in department design or construction criteria for a period of 36 months after written approval is issued by the department;

(c) plans and specifications for a portion of a facility or system subject to a 36-month limit on criteria changes pursuant to subsections (3)(a) and (3)(b) but not constructed within the 36-month timeframe must be resubmitted for department review and approval before construction of that portion of the facility;

(d) the provisions of this subsection (3) may not limit an applicant's ability to alter a proposed project that is otherwise in conformance with applicable laws, rules, standards, and criteria; and

(e) department approval of development plans for a municipal system *or an eligible county water and/or sewer district* that allows additional connections above the approved rated capacity of a water or wastewater system pursuant to 75-6-130.

(4) The department or the board may issue orders necessary to fully implement the provisions of this part.

(5) The department shall:

(a) on its own initiative or complaint to the department, to the mayor or health officer of a municipality, or to the managing board or officer of a public institution, make an investigation of alleged pollution of a water supply system and, if required, prohibit the continuance of the pollution by ordering removal of the cause of pollution;

(b) have waters examined to determine their quality and the possibility that they may endanger public health;

(c) consult and advise authorities of cities and towns and persons having or about to construct systems for water supply, drainage, wastewater, and sewage as to the most appropriate source of water supply and the best method of ensuring its quality;

(d) advise persons as to the best method of treating and disposing of their drainage, sewage, or wastewater with reference to the existing and future needs of other persons and to prevent pollution;

(e) consult with persons engaged in or intending to engage in manufacturing or other business whose drainage or sewage may tend to pollute waters as to the best method of preventing pollution;

(f) collect fees, as described in 75-6-108, for services and deposit the fees collected in the public drinking water special revenue fund established in 75-6-115;

(g) establish and maintain experiment stations and conduct experiments to study the best methods of treating water, drainage, wastewater, and sewage to prevent pollution, including investigation of methods used in other states;

(h) enter on premises at reasonable times to determine sources of pollution or danger to water supply systems and whether rules and standards of the department are being obeyed;

- (i) enforce and administer the provisions of this part;
- (j) establish a plan for the provision of safe drinking water under emergency circumstances;
- (k) maintain an inventory of public water supply systems and establish a program for conducting sanitary surveys;
- (l) enter into agreements with local boards of health whenever appropriate for the performance of surveys and inspections under the provisions of this part; and
- (m) review in the form of a written response within 60 days to an applicant seeking approval for use of reclaimed wastewater for snowmaking subject to subsection (2)(k) that:
 - (i) approves, approves with conditions, or denies the application pursuant to the provisions of this part; and
 - (ii) (A) describes additional information that must be submitted prior to department approval under subsection (5)(m)(i); or
 - (B) describes any additional requirements that the applicant must satisfy prior to department approval under subsection (5)(m)(i), such as a permit to discharge under Title 75, chapter 5, part 4, or an authorization under Title 85 from the department of natural resources and conservation.”

Section 3. Section 75-6-130, MCA, is amended to read:

“75-6-130. Development plans – department requirements – rulemaking. (1) Unless authorized by a development plan approved by the department of environmental quality under this section, a public water or wastewater supply system may not certify or authorize additional connections to its water or wastewater system that would exceed its approved rated capacity.

(2) The department shall approve a municipal *or eligible county water and/or sewer district* development plan to allow additional connections to a public water or wastewater supply system if the municipality *or eligible county water and/or sewer district* demonstrates that:

(a) the additional connections will not exceed the approved rated capacity of the system;

(b) the additional connections will not create a risk to public health or the environment;

(c) the plan will not cause a violation of any provision of or rule adopted under this part or Title 75, chapter 5 or 6, or any condition or requirement of an approval or order issued pursuant to this part or Title 75, chapter 5 or 6; and

(d) the additional connections will not cause the municipality *or eligible county water and/or sewer district* to exceed the flow rate, volume, or place of use of its water right as defined under 85-2-102.

(3) A municipality *or eligible county water and/or sewer district* with a development plan approved under this section shall submit an annual report detailing its compliance with the approved plan to the department.

(4) A development plan approved under this section may be used by the department to approve connections that would exceed the system’s approved rated capacity only if the connection would serve a subdivision subject to review under Title 76, chapter 3, and the governing body has required department certification before final plat approval in accordance with 76-3-507(5).

(5) The department may revoke or require modification of an approved development plan if:

- (a) the conditions of development have fundamentally changed;

(b) the municipality or *eligible county water and/or sewer district* has violated the requirements of this section or a condition of an approved development plan; or

(c) the department otherwise determines that the conditions of subsection (2) have not been or will not be satisfied.

(6) A municipality or *eligible county water and/or sewer district* that violates this section or a condition of an approved development plan is subject to penalties under 75-6-114.

(7) The department may adopt rules to implement this section.

(8) Nothing in this section requires a municipality or *eligible county water and/or sewer district* to submit a development plan for review unless the municipality or *eligible county water and/or sewer district* intends to approve connections beyond the ~~municipal~~ system's rated capacity.

(9) As used in this section, the following definitions apply:

(a) "Development plan" means a planning document that outlines the current rated capacity of a water or wastewater system and the system's proposed capacity after upgrades, marked by milestones of construction activity as a percentage of existing capacity, are made to the system and includes a timeline for when the design, bidding, and construction of upgrades to an existing system will be completed.

(b) "Rated capacity" means the gross capacity of a water or wastewater system as required by the design standards provided for in Title 75, chapter 6, wastewater discharge permit limits set in Title 75, chapter 5, and water right limits required in Title 85."

Section 4. Section 76-3-103, MCA, is amended to read:

"76-3-103. Definitions. As used in this chapter, unless the context or subject matter clearly requires otherwise, the following definitions apply:

(1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(2) "Cluster development" means a subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped.

(3) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

(4) "Division of land" means the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to this chapter. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.

(5) "*Eligible county water and/or sewer district*" means a county water district, a county sewer district, or a county water and sewer district that:

(a) is incorporated under 7-13-2203;

(b) is operated in compliance with Title 75, chapters 5 and 6; and

(c) employs or retains a professional engineer.

~~(5)~~(6) "Examining land surveyor" means a registered land surveyor appointed by the governing body to review surveys and plats submitted for filing.

(6)(7) "Final plat" means the final drawing of the subdivision and dedication required by this chapter to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this chapter and in regulations adopted pursuant to this chapter.

(7)(8) "Governing body" means a board of county commissioners or the governing authority of a city or town organized pursuant to law.

(8)(9) "Immediate family" means a spouse, children by blood or adoption, and parents.

(9)(10) "Minor subdivision" means a subdivision that creates five or fewer lots from a tract of record.

(10)(11) "Phased development" means a subdivision application and preliminary plat that at the time of submission consists of independently platted development phases that are scheduled for review on a schedule proposed by the subdivider.

(11)(12) "Planned unit development" means a land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.

(12)(13) "Plat" means a graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

(13)(14) "Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body.

(14)(15) "Public utility" has the meaning provided in 69-3-101, except that for the purposes of this chapter, the term includes county or consolidated city and county water or sewer districts as provided for in Title 7, chapter 13, parts 22 and 23, and municipal sewer or water systems and municipal water supply systems established by the governing body of a municipality pursuant to Title 7, chapter 13, parts 42, 43, and 44.

(15)(16) "Subdivider" means a person who causes land to be subdivided or who proposes a subdivision of land.

(16)(17) "Subdivision" means a division of land or land so divided that it creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to the parcels may be sold or otherwise transferred and includes any resubdivision and a condominium. The term also means an area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or mobile homes will be placed.

(17)(18) (a) "Tract of record" means an individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office.

(b) Each individual tract of record continues to be an individual parcel of land unless the owner of the parcel has joined it with other contiguous parcels by filing with the county clerk and recorder:

(i) an instrument of conveyance in which the aggregated parcels have been assigned a legal description that describes the resulting single parcel and in which the owner expressly declares the owner's intention that the tracts be merged; or

(ii) a certificate of survey or subdivision plat that shows that the boundaries of the original parcels have been expunged and depicts the boundaries of the larger aggregate parcel.

(c) An instrument of conveyance does not merge parcels of land under subsection ~~(17)(b)(i)~~ (18)(b)(i) unless the instrument states, "This instrument is intended to merge individual parcels of land to form the aggregate parcel(s) described in this instrument" or a similar statement, in addition to the legal description of the aggregate parcels, clearly expressing the owner's intent to effect a merger of parcels."

Section 5. Section 76-3-507, MCA, is amended to read:

"76-3-507. Provision for security requirements to ensure construction of public improvements. (1) Except as provided in subsections (2) and (4), the governing body shall require the subdivider to complete required improvements within the proposed subdivision prior to the approval of the final plat.

(2) (a) In lieu of the completion of the construction of any public improvements prior to the approval of a final plat, the governing body shall at the subdivider's option allow the subdivider to provide or cause to be provided a bond or other reasonable security, in an amount and with surety and conditions satisfactory to the governing body, providing for and securing the construction and installation of the improvements within a period specified by the governing body and expressed in the bonds or other security. The governing body shall reduce bond or security requirements commensurate with the completion of improvements.

(b) In lieu of requiring a bond or other means of security for the construction or installation of all the required public improvements under subsection (2)(a), the governing body may approve an incremental payment or guarantee plan. The improvements in a prior increment must be completed or the payment or guarantee of payment for the costs of the improvements incurred in a prior increment must be satisfied before development of future increments.

(3) Approval by the governing body of a final plat prior to the completion of required improvements and without the provision of the security required under subsection (2) is not an act of a legislative body for the purposes of 2-9-111.

(4) The governing body may require a percentage of improvements or specific types of improvements necessary to protect public health and safety to be completed before allowing bonding or other reasonable security under subsection (2)(a) for purposes of filing a final plat. The requirement is applicable to approved preliminary plats.

(5) If capacity for the subdivision was approved under a development plan as provided for in 75-6-130, the governing body shall require the subdivider to complete the water and sewer improvements within and to the proposed subdivision prior to the approval of the final plat. The subdivider shall provide a letter from the department that states that certification and as-builts for the subdivision have been received and that the municipality *or eligible county water and/or sewer district* is in compliance with the applicable development plan."

Section 6. Section 76-4-102, MCA, is amended to read:

"76-4-102. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Adequate county water and/or sewer district facilities" means facilities provided by a county water and/or sewer district incorporated under Title 7, chapter 13, that operate in compliance with Title 75, chapters 5 and 6.

(2) “Adequate municipal facilities” means municipally, publicly, or privately owned facilities that supply water, treat sewage, or dispose of solid waste for all or most properties within the boundaries of a municipality and that are operating in compliance with Title 75, chapters 5 and 6, including development plans approved by the department pursuant to 75-6-130.

(3) “Board” means the board of environmental review.

(4) “Certifying authority” means a municipality or a county water and/or sewer district that meets the eligibility requirements established by the department under 76-4-104(7).

(5) “Department” means the department of environmental quality.

(6) *“Eligible county water and/or sewer district” means a county water district, a county sewer district, or a county water and sewer district that:*

(a) is incorporated under 7-13-2203;

(b) is operated in compliance with Title 75, chapters 5 and 6; and

(c) employs or retains a professional engineer.

(6)(7) “Extension of a public sewage system” means a sewerline that connects two or more sewer service lines to a sewer main.

(7)(8) “Extension of a public water supply system” means a waterline that connects two or more water service lines to a water main.

(8)(9) “Facilities” means public or private facilities for the supply of water or disposal of sewage or solid waste and any pipes, conduits, or other stationary method by which water, sewage, or solid wastes might be transported or distributed.

(9)(10) “Independent reviewer” means a registered sanitarian or registered professional engineer that the department has certified to conduct a review under 76-4-104.

(10)(11) “Individual water system” means any water system that serves one living unit or commercial unit and that is not a public water supply system as defined in 75-6-102.

(11)(12) “Mixing zone” has the meaning provided in 75-5-103.

(12)(13) (a) “Proposed drainfield mixing zone” means a mixing zone submitted for approval under this chapter after March 30, 2011.

(b) The term does not include drainfield mixing zones that existed or were approved under this chapter prior to March 30, 2011.

(13)(14) (a) “Proposed well isolation zone” means a well isolation zone submitted for approval under this chapter after October 1, 2013.

(b) The term does not include well isolation zones that existed or were approved under this chapter prior to October 1, 2013.

(14)(15) “Public sewage system” or “public sewage disposal system” means a public sewage system as defined in 75-6-102.

(15)(16) “Public water supply system” has the meaning provided in 75-6-102.

(16)(17) “Regional authority” means any regional water authority, regional wastewater authority, or regional water and wastewater authority organized pursuant to the provisions of Title 75, chapter 6, part 3.

(17)(18) “Registered professional engineer” means a person licensed to practice as a professional engineer under Title 37, chapter 67.

(18)(19) “Registered sanitarian” means a person licensed to practice as a sanitarian under Title 37, chapter 40.

(19)(20) “Reviewing authority” means the department or a local department or board of health certified to conduct a review under 76-4-104.

(20)(21) “Sanitary restriction” means a prohibition against the erection of any dwelling, shelter, or building requiring facilities for the supply of water or the disposition of sewage or solid waste or the construction of water supply or

sewage or solid waste disposal, facilities until the department has approved plans for those facilities.

~~(21)~~(22) "Sewage" has the meaning provided in 75-5-103.

~~(22)~~(23) "Sewer service line" means a sewerline that connects a single building or living unit to a public sewage system or to an extension of a public sewage system.

~~(23)~~(24) "Solid waste" has the meaning provided in 75-10-103.

~~(24)~~(25) "Subdivision" means a division of land or land so divided that creates one or more parcels containing less than 20 acres, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any resubdivision, any condominium, townhome, or townhouse, or any parcel, regardless of size, that provides two or more permanent spaces for recreational camping vehicles or mobile homes.

~~(25)~~(26) "Water service line" means a waterline that connects a single building or living unit to a public water supply system or to an extension of a public water supply system.

~~(26)~~(27) "Well isolation zone" means the area within a 100-foot radius of a water well or a smaller, site-specific radius as approved by the department."

Section 7. Section 76-4-120, MCA, is amended to read:

"76-4-120. Development plans – exceptions. (1) A reviewing authority may not approve a subdivision under this chapter that is subject to a development plan approved under 75-6-130 unless the subdivision is subject to the provisions of Title 76, chapter 3, and the governing body has required department certification before final plat approval pursuant to 76-3-507(5).

(2) A certifying authority may not certify that a division under 76-4-125(1)(d) will be served by adequate municipal *or eligible county water and/or sewer district* facilities pursuant to a development plan approved under 75-6-130 unless the division is subject to the provisions of Title 76, chapter 3, and the governing body has required department certification before final plat approval pursuant to 76-3-507(5)."

Section 8. Section 76-8-101, MCA, is amended to read:

"76-8-101. Definitions. As used in this part, the following definitions apply:

(1) "Building" means a structure or a unit of a structure with a roof supported by columns or walls for the permanent or temporary housing or enclosure of persons or property or for the operation of a business. Except as provided in ~~76-3-103(16)~~ 76-3-103(17), the term includes a recreational camping vehicle, mobile home, or cell tower. The term does not include a condominium or townhome.

(2) "Department" means the department of environmental quality provided for in 2-15-3501.

(3) "Governing body" means the legislative authority for a city, town, county, or consolidated city-county government.

(4) "Landowner" means an owner of a legal or equitable interest in real property. The term includes an heir, successor, or assignee of the ownership interest.

(5) "Local reviewing authority" means a local department or board of health that is approved to conduct reviews under Title 76, chapter 4.

(6) "Supermajority" means:

(a) an affirmative vote of at least two-thirds of the present and voting members of a city or town council;

(b) a unanimous affirmative vote of the present and voting county commissioners in counties with three county commissioners;

(c) an affirmative vote of at least four-fifths of the present and voting county commissioners in counties with five commissioners;

(d) an affirmative vote of at least two-thirds of the present and voting county commissioners in counties with more than five commissioners; or

(e) an affirmative vote of at least two-thirds of the present and voting members of the governing body of a consolidated city-county government.

(7) "Tract" means an individual parcel of land that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office."

Approved May 8, 2025

CHAPTER NO. 487

[HB 543]

AN ACT REPEALING THE SUNSET ON REPORTING AND DISCLOSURE OF VIOLENCE AGAINST HEALTH CARE EMPLOYEES; REPEALING SECTION 4, CHAPTER 516, LAWS OF 2023; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. Section 4, Chapter 516, Laws of 2023, is repealed.

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 488

[HB 549]

AN ACT GENERALLY REVISING ALCOHOLIC BEVERAGE LAWS; ALLOWING A MONTANA DISTILLERY LICENSEE TO MARKET AND SELL INTERESTS IN AGING LIQUOR THROUGH WAREHOUSE RECEIPTS; ALLOWING THE RESALE OF LIQUOR WAREHOUSE RECEIPTS; ALLOWING MANAGEMENT AND BROKERING OF WAREHOUSE RECEIPT SALES; PROVIDING THAT OWNERSHIP OF WAREHOUSE RECEIPTS FOR LIQUOR DOES NOT CONSTITUTE AN OWNERSHIP INTEREST IN THE DISTILLERY BUSINESS OR LICENSEE; AMENDING SECTIONS 16-4-312 AND 16-4-401, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 16-4-312, MCA, is amended to read:

"16-4-312. Domestic distillery. (1) A distillery located in Montana and licensed pursuant to 16-4-311 may:

(a) import necessary products in bulk;

(b) bottle, produce, blend, store, transport, or export liquor that it produces;

(c) perform those operations that are permitted for bonded distillery premises under applicable regulations of the United States department of the treasury; and

(d) have a premises that includes more than one building for manufacturing purposes pursuant to 27 CFR 19.53 and is operated under a federal basic permit.

(2) (a) A distillery that is located in Montana and licensed pursuant to 16-4-311 shall sell liquor to the department under this code, and the department shall include the distillery's liquor as a listed product.

(b) The distillery may use a common carrier for delivery of the liquor to the department.

(c) A distillery that produces liquor within the state under this subsection (2) shall maintain records of all sales and shipments. The distillery shall furnish monthly and other reports concerning quantities and prices of liquor that it ships to the department and other information that the department may determine to be necessary to ensure that distribution of liquor within this state conforms to the requirements of this code.

(3) (a) A distillery that is located in Montana and licensed to manufacture distilled spirits may be licensed by the department to own, lease, maintain, and operate anywhere in the state a storage depot for receiving, handling, and storing distilled spirits in addition to distributing and selling distilled spirits from the storage depot, subject to this code.

(b) To be licensed for a storage depot, a distillery shall pay an annual license fee as provided in 16-4-501 for each storage depot operated by the distillery, in addition to all other fees and taxes required to be paid by the distillery, and must meet all applicable suitability requirements.

(4) A microdistillery may:

(a) provide, with or without charge, not more than 2 ounces of liquor that it produces at the microdistillery to consumers for prepared servings:

(i) through curbside pickup between 10 a.m. and 8 p.m.; and

(ii) for on-premises consumption during the hours of operation that are identical to those allowed for a brewery license provided for in 16-3-213(2)(b) and corresponding administrative rules relating to the service, consumption, and possession of alcoholic beverages on the premises; or

(b) sell liquor in original packaging that it produces at retail at the distillery between the hours of 8 a.m. and 2 a.m. directly to the consumer, including curbside pickup, for off-premises consumption if:

(i) not more than 4.5 liters a day is sold to an individual; and

(ii) the minimum retail price as determined by the department is charged.

(5) Liquor samples provided pursuant to subsection (4)(a) are not permitted at more than one manufacturing premises for each license.

(6) (a) *A distillery located in the state and licensed pursuant to 16-4-311 may issue or sell warehouse receipts to any person. The warehouse receipt is for liquor stored at the distillery's licensed premises, including a licensed warehouse premises of the distillery, within the portion of the premises that is bonded pursuant to federal law, as provided in Title 30, chapter 7, except that for the purposes of this subsection (6), the term "distilled spirits" in 30-7-201(2) means "liquor" as defined in 16-1-106. The sale or purchase of warehouse receipts as provided in this subsection (6) does not constitute a transfer of an ownership interest in the distillery business or license.*

(b) *The department may not require any application or report to be filed in connection with the sale or purchase of warehouse receipts, provided that the liquor to which the warehouse receipts apply must physically remain within the distillery's licensed premises, including a licensed warehouse premises of the distillery, until the liquor is physically transferred in bond to another federally bonded premises, or until the liquor is otherwise transferred, sold, or disposed of in accordance with this code or applicable federal law.*

(c) *Warehouse receipts originally issued by a distillery as provided in this subsection (6) may be resold by a holder of the warehouse receipts to any person. A distillery or any subsequent holder of warehouse receipts may use an intermediary business to market, facilitate, manage, sell, and invest in warehouse receipts.*

(d) *A person may purchase or otherwise invest in warehouse receipts originally issued by distilleries licensed under federal law, regardless of*

whether the distillery is located in the state. Nothing in this section authorizes the holder or owner of a warehouse receipt to accept delivery of any liquor unless the person is permitted under law to receive the liquor.”

Section 2. Section 16-4-401, MCA, is amended to read:

“16-4-401. License as privilege – criteria for decision on application – restrictions – colocated licenses. (1) A license under this code is a privilege that the state may grant to an applicant and is not a right to which any applicant is entitled.

(2) Except as provided in 16-4-311 and subsection (5) of this section and subject to subsection (8), the department shall find in every case in which it makes an order for the issuance of a new license, for the approval of the transfer of a license, or for the renewal of a license that:

(a) if the applicant is an individual:

(i) the applicant’s past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments;

(ii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant’s rights have been restored; and

(iii) the applicant is not under 19 years of age;

(b) if the applicant is a publicly traded corporation:

(i) the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a);

(ii) each individual who has control over the operation of the license meets the requirements for an individual applicant listed in subsection (2)(a); and

(iii) the corporation is authorized to do business in Montana;

(c) if the applicant is a privately held corporation, all of the following must apply:

(i) each owner of 15% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a), and the owners of 51% of the outstanding stock must meet the requirements of subsection (2)(a).

(ii) each individual who has control over the operation of the license meets the requirements for an individual applicant listed in subsection (2)(a);

(iii) each person who shares in the profits or liabilities of a license meets the requirements for an individual applicant listed in subsection (2)(a). This subsection (2)(c)(iii) does not apply to a shareholder of a corporation who owns less than 15% of the outstanding stock in that corporation except that the provisions of subsection (7) apply.

(iv) the corporation is authorized to do business in Montana;

(d) if the applicant is a general partnership, each partner must meet the requirements of subsection (2)(a);

(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the requirements of subsection (2)(a). If no single limited partner’s interest equals or exceeds 15%, then 51% of all limited partners must meet the requirements of subsection (2)(a).

(f) if the applicant is a limited liability company:

(i) all managing members and those members whose ownership interest in the company equals or exceeds 15% must meet the requirements of subsection

(2)(a). If no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of subsection (2)(a).

(ii) the limited liability company is authorized to do business in Montana;

(g) if the applicant is a trust, the trustee must meet the requirements of subsection (2)(a);

(h) if the applicant is a nonprofit organization:

(i) the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a); and

(ii) the nonprofit organization is authorized to do business in Montana;

(i) if the applicant is a cooperative association:

(i) the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a); and

(ii) the cooperative association is authorized to do business in Montana.

(3) The applicant and any individual of the applicant who must meet the requirements of (2)(a) must be current on all tax filings, taxes, interest, and penalties due to the state; however, nothing in this subsection authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax protestor when renewing the license.

(4) In the case of a corporate applicant, the requirements of subsection (2)(b) or (2)(c) apply separately to each class of stock.

(5) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant to 16-4-302 or an applicant for registration under 16-4-101 or 16-4-107.

(6) An applicant's source of funding must be from a suitable source. A lender or other source of money or credit may be found unsuitable if the source:

(a) is a person whose prior financial or other activities or criminal record:

(i) poses a threat to the public interest of the state;

(ii) poses a threat to the effective regulation and control of alcoholic beverages; or

(iii) creates a danger of illegal practices, methods, or activities in the conduct of the licensed business; or

(b) has been convicted of a felony unless the person's rights have been restored.

(7) (a) Except as specifically provided in this code relating to financial interests in licenses, nothing in this section applies or otherwise prohibits an applicant or licensee from obtaining personal financing from a licensed financial institution, taking advantage of consumer credit, or using a personal credit card to make purchases on behalf of a licensed entity if the applicant or licensee is reimbursed by the licensed entity within 90 days. An applicant or individual may obtain multiple transactions up to an aggregate maximum of \$100,000 with each individual transaction not to exceed \$25,000 to be used on behalf of the licensed entity.

(b) A licensee's use of short-term financing of 90 days or less from institutional lenders and noninstitutional lenders does not constitute an undisclosed ownership interest in the license.

(c) It is the intent of this subsection (7) to facilitate the efficient administration of an entity licensed under this code.

(8) (a) An individual applying for an all-beverages license or having any ownership interest in an entity applying for an all-beverages license may not, if the application were to be approved, own an interest in more than half the total number of allowable all-beverages licenses in any quota area described in 16-4-201.

(b) If two or more individuals through a business or family relationship share in the profits or liabilities of all-beverages licenses, the aggregate number of licenses in which they share in the profits or liabilities may not exceed half the total number of allowable all-beverages licenses in the specific quota area in which the all-beverages licenses will be held.

(c) An applicant applying for an all-beverages license and any individual of the applicant who must meet the requirements of subsection (2)(a) may not, if the application were to be approved, possess an ownership interest in more than the limit established in 16-4-205 for establishments licensed under this chapter for all-beverages sales. However, resort retail all-beverages licenses issued under 16-4-213 do not count toward this limit.

(d) An applicant and any individual of the applicant who must meet the requirements of subsection (2)(a) may not possess an ownership interest in an agency liquor store as defined in 16-1-106.

(e) Except as provided in subsection (9), an applicant for an on-premises consumption license or any member of the applicant's immediate family must be without financing from and may not have any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages, except that an applicant's spouse may possess an ownership interest in one or more manufacturer licenses. This prohibition also applies to any individual of the applicant who must meet the requirements of subsection (2)(a).

(f) An applicant for an off-premises consumption license or any member of the applicant's immediate family must be without financing from and may not have any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages. This prohibition also applies to any individual of the applicant who must meet the requirements of subsection (2)(a).

(g) Except as provided in subsection (9), an applicant for a manufacturing, importing, or wholesaling license and any individual of the applicant who must meet the requirements of subsection (2)(a) may not possess an ownership interest in any establishment licensed under this chapter for retail alcoholic beverage sales.

(h) An applicant for a wholesale license and any individual of the applicant who must meet the requirements of subsection (2)(a) may not be a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage.

(9) (a) A person with an ownership interest in a licensed brewery or licensed winery may hold complete ownership of up to a combined total of three retail licenses issued pursuant to 16-4-105 or 16-4-201. The owner of a retail license issued pursuant to 16-4-105 or 16-4-201 may hold complete ownership of brewery or winery licenses. The first of these licenses must be a colocated license.

(b) A person with an ownership interest in a licensed distillery may hold complete ownership of up to three retail licenses issued pursuant to 16-4-201. The owner of a retail license issued pursuant to 16-4-201 may hold complete ownership of distillery licenses. The first of these licenses must be a colocated license.

(c) A person with an ownership interest in a retail license issued pursuant to 16-4-105 may not also have an ownership interest in a distillery license.

(d) To hold both a manufacturing license and a retail license pursuant to this subsection (9), a licensee:

(i) must maintain both the manufacturing license and the retail license on the same premises for the first of these licenses, known as a colocated premises;

(ii) must have 100% of the same ownership between the manufacturing license and the retail license; and

(iii) must provide and serve through the retail license alcohol produced by other manufacturers that are not affiliated or financially interested, either directly or indirectly, in the conduct or operation of the business in which the license was issued pursuant to 16-4-105 and 16-4-201, or the licensed brewery, winery, or distillery.

(e) Colocated licenses may transfer beer manufactured, liquor distilled, or wine produced by the licensee between the colocated manufacturing license and the retail license without it being considered distributed or delivered as provided in this code.

(f) For the purposes of this code, the following definitions apply:

(i) "Colocated license" means a manufacturing license and a retail license owned completely by a licensee and that are operated at one premises.

(ii) "Colocated premises" means a premises where a manufacturing license and a retail license are both located.

(10) Ownership of warehouse receipts as provided in 16-4-312 does not constitute ownership, control, or affiliation with the distillery that originally issued the warehouse receipt. A person who holds a warehouse receipt as provided in 16-4-312(6) is not restricted from any activity regulated by the department that is otherwise legal for the person. Except in connection with the department's income tax enforcement duties as provided in Title 15, the department is not authorized to require a distillery or any other person to provide information regarding the sale or purchase of warehouse receipts."

Section 3. Effective date. [This act] is effective July 1, 2025.

Approved May 8, 2025

CHAPTER NO. 489

[HB 561]

AN ACT REPEALING LAWS RELATING TO COUNTY LICENSING OF ITINERANT VENDORS; AND REPEALING SECTIONS 7-21-2301, 7-21-2302, 7-21-2303, 7-21-2304, 7-21-2305, 7-21-2306, 7-21-2307, 7-21-2308, 7-21-2309, AND 7-21-2310, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. The following sections of the Montana Code Annotated are repealed:

7-21-2301. Definitions.

7-21-2302. Scope of part.

7-21-2303. License required to do business as itinerant vendor -- fee.

7-21-2304. Nontransferability of license.

7-21-2305. Application for itinerant vendor license.

7-21-2306. Bond required if deposit taken on orders for future delivery.

7-21-2307. Right of aggrieved purchaser.

7-21-2308. Processing of application -- issuance of license.

7-21-2309. License to be displayed upon demand.

7-21-2310. Effect of failure to comply with licensing requirements.

Approved May 8, 2025

CHAPTER NO. 490

[HB 563]

AN ACT PROTECTING THE FILING OF OR PARTICIPATION IN LICENSING COMPLAINT INVESTIGATIONS; VOIDING CONTRACTS BARRING THE FILING OF OR PARTICIPATION IN LICENSING COMPLAINT INVESTIGATIONS; ESTABLISHING UNPROFESSIONAL CONDUCT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Complaint filing protected – unprofessional conduct.

(1) A contract or agreement provision is void if it prohibits, discourages, or otherwise bars or purports to bar:

(a) the filing or pursuing of a complaint allowable under 37-1-308 or 37-1-402; or

(b) an individual from participating in or cooperating with an investigation of a complaint filed under 37-1-308 or 37-1-402.

(2) It is unprofessional conduct for a licensee to:

(a) be party to a contract or agreement in violation of this section; or

(b) retaliate against a person for filing a complaint allowable under 37-1-308 or 37-1-402.

(3) This section does not apply to general waivers of claims. General waivers of claims may not be interpreted to apply to complaints allowable under 37-1-308 or 37-1-402.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 37, chapter 1, part 1, and the provisions of Title 37, chapter 1, part 1, apply to [section 1].

Section 3. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 491

[HB 566]

AN ACT REVISING THE DECENNIAL VETERANS' LONG-TERM CARE NEEDS STUDY; MOVING PRIMARY RESPONSIBILITY FOR THE SURVEY FROM THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO THE MONTANA VETERANS' AFFAIRS DIVISION; REQUIRING THE INVOLVEMENT OF STAKEHOLDERS; REQUIRING THE PREPARATION OF A STUDY PLAN AND BUDGET ESTIMATE; REVISING REPORTING REQUIREMENTS; AND AMENDING SECTIONS 10-2-901, 10-2-902, AND 10-2-903, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 10-2-901, MCA, is amended to read:

“10-2-901. Decennial veterans' long-term care needs study. (1) On receipt of the most recent federal census data, the ~~department of public health and human services~~ *Montana veterans' affairs division*, in consultation with the ~~Montana veterans' affairs division~~ *department of public health and human*

services, shall perform an analysis of the long-term care needs of veterans in the state, known as the decennial veterans' long-term care needs study.

(2) The study must determine the demographics of the Montana veteran population, including the number and age of veterans in each county and the type of long-term care needs of the population. ~~The long-term care assessment for veterans study must also include evaluation of the need for nursing home, domiciliary, and Alzheimer's disease support services, as well as the various types of community and in-home care that are needed~~ any other care needs identified by the Montana veterans' affairs division and by stakeholders.

(3) The study must include a personal survey of the Montana veteran population, including online and paper options *and focus groups*.

(4) This study must be conducted in collaboration with *stakeholders, including but not limited to veterans' outreach organizations, legislators, caregivers, and other local groups that work directly with the Montana veteran population. The Montana veterans' affairs division may form an advisory committee comprised of stakeholders to assist with the survey.*

~~(4)(5)~~ The study must evaluate existing veterans' home services and the configuration of those services with respect to the needs identified.

~~(5)(6)~~ The study must include an analysis of the need for additional state veterans' cemeteries, including their placement within the state.

(7) The Montana veterans' affairs division shall prepare an outreach and marketing plan prior to the start of the study."

Section 2. Section 10-2-902, MCA, is amended to read:

~~"10-2-902. Department of public health and human services~~ **Montana veterans' affairs division to conduct study.** The staff of the senior and long-term care division within the department of public health and human services *Montana veterans' affairs division shall conduct the decennial veterans' long-term care needs study. The staff of the Montana veterans' affairs division senior and long-term care division within the department of public health and human services shall provide support as needed."*

Section 3. Section 10-2-903, MCA, is amended to read:

~~"10-2-903. Survey report required Reporting requirements – plan and budget.~~ (1) (a) *During the interim prior to the availability of the most recent federal census data, the staff of the Montana veterans' affairs division shall present a plan for conducting the study required in 10-2-901, including a budget estimate, to the state administration and veterans' affairs interim committee.*

(b) After hearing the study plan and budget estimate, the state administration and veterans' affairs interim committee may request a committee bill with an appropriation to fund the study.

(2) The Montana veterans' affairs division shall provide at least one update to the state administration and veterans' affairs interim committee while the study is being conducted. The committee may request additional updates as needed.

(3) As soon as possible after the completion of the decennial survey study, the department of public health and human services and the Montana veterans' affairs division, in consultation with the department of public health and human services, shall prepare a detailed written report and present a detailed report it to the state administrative administration and veterans' affairs interim committee in accordance with 5-11-210, including but not limited to results of the study, recommendations for legislative actions, and recommendations for changes to the conduct of future studies."

Approved May 8, 2025

CHAPTER NO. 492

[HB 567]

AN ACT GENERALLY REVISING LAWS RELATED TO MULTIDISTRICT AGREEMENTS BETWEEN SCHOOL DISTRICTS; INCREASING THE FLEXIBILITY OF SCHOOL DISTRICTS TO ENTER INTO MULTIDISTRICT AGREEMENTS; PROVIDING A COUNTYWIDE RESOURCE-SHARING INCENTIVE THROUGH THE TOTAL QUALITY EDUCATOR PAYMENT FOR SCHOOL DISTRICTS THAT ESTABLISH CERTAIN MULTIDISTRICT AGREEMENTS WITH ALL DISTRICTS IN A COUNTY; ALLOWING MULTIDISTRICT AGREEMENTS TO INCLUDE PRIVATE ENTITIES; AMENDING SECTIONS 20-3-363 AND 20-9-306, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-3-363, MCA, is amended to read:

“20-3-363. Multidistrict agreements – fund transfers. (1) (a) The boards of trustees of any two or more school districts may enter into a multidistrict agreement to create a multidistrict cooperative to perform any services, activities, and undertakings of the participating districts, *including full and to provide for the joint funding and operation and maintenance of all programs and services of the* participating districts upon the terms and conditions as may be mutually agreed to by the districts subject to the conditions of this section.

(b) A multidistrict agreement may include an agreement through which one district provides culturally rooted instruction aligned to a learning environment for English language learners or an Indian language immersion program to pupils of a district participating in the multidistrict agreement. The costs and other terms of service must be reflected in the multidistrict agreement.

(c) An agreement must include provisions for dissolution of the cooperative, including the conditions under which dissolution may occur and the disposition of any remaining funds that had been transferred to an interlocal cooperative fund in support of the cooperative. An agreement must be approved by the boards of trustees of all participating districts and must include a provision specifying terms upon which a district may exit the multidistrict cooperative. ~~The agreement may be for a period of up to 3 years.~~

(2) All expenditures in support of the multidistrict agreement may be made from ~~the each participating school district's~~ interlocal cooperative fund ~~as specified in 20-9-703 and 20-9-704.~~ ~~Each~~ *The board of trustees of each* participating district of the multidistrict cooperative may transfer funds into the *district's* interlocal cooperative fund from the district's general fund, budgeted funds other than the retirement fund or debt service fund, or nonbudgeted funds other than the compensated absence liability fund. Transfers to the *district's* interlocal cooperative fund from ~~each participating~~ *the* school district's general fund are limited to an amount not to exceed the direct state aid in support of the respective school district's general fund. Transfers from the retirement fund and debt service fund are prohibited. Transfers may not be made with funds restricted by federal law unless the transfer is in compliance with any restrictions or conditions imposed by federal law.

(3) Expenditures from the interlocal cooperative fund under this section ~~are limited to those~~ *may include any* expenditures that are ~~permitted by law and that are within the final budget considered by the board of trustees of the~~

district to be reasonable and necessary to efficiently and effectively finance the expenditures pursuant to the terms of the multidistrict agreement, not to exceed the total expenditures approved by the board of trustees for the budgeted fund from which the transfer was made, including expenditures pursuant to any budget amendment adopted pursuant to 20-9-165.

(4) The intent of this section is to increase the flexibility and efficiency of school districts without an increase in local taxes. In furtherance of this intent, if transfers of funds are made from any school district fund supported by a nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the amount of funds transferred.

(5) (a) *Beginning in school fiscal year 2027, school districts that achieve the legislative goal for countywide resource sharing outlined in this subsection (5) must receive a 50% increase in their total quality educator payment as defined in 20-9-306.*

(b) *The legislative goal for countywide resource sharing is for each school district with a majority of its territory in a county to participate in a countywide multidistrict agreement as specified in this subsection (5). To receive the enhanced incentive, the multidistrict agreement executed by the participating districts must:*

(i) *include at least all school districts with a majority of their territory within the boundaries of the same county. Provided that at least all school districts in at least one county have entered into a multidistrict agreement under this subsection (5), other school districts located in other counties that participate in the multidistrict agreement must also receive the enhanced total quality educator payment calculated in accordance with subsection (5)(a).*

(ii) *provide for the joint funding and operation of the participating districts as described in this subsection (5);*

(iii) *contractually allocate an amount at least equal to each district's general fund direct state aid for the support of joint funding and operations among all participating districts as described in this subsection (5); and*

(iv) *to the extent of the funds committed, jointly and mutually establish, maintain, budget, and finance the programs of the participating districts identified under this subsection (5). Activities must be in compliance with the accreditation standards of the board of public education and may include the sharing of staff among the participating districts when that is consistent with collective bargaining, if applicable, and when that is determined by the board of trustees of each participating school district to be the most efficient and effective use of district staff. The programs of the participating districts that are mutually administered must include, at a minimum:*

(A) *administration functions, including budgeting, payroll, human resources, elections, and services provided in support of the board of trustees;*

(B) *custodial services;*

(C) *instructional services and support, including remote instruction, selection of textbooks, library and media services and curriculum development and implementation;*

(D) *K-12 career and vocational/technical education and work-based learning;*

(E) *school food services;*

(F) *software licensing and other information technology;*

(G) *extracurricular activities;*

(H) *special education programs; and*

(I) *transportation for instruction and school activities.*

(6) *Nothing in this section may be construed to prohibit a district that has entered into a countywide multidistrict agreement from entering into any other*

multidistrict agreement otherwise meeting the requirements of this section other than subsection (5). Districts participating in a countywide multidistrict agreement from one county may also cooperate with districts from any other county to form multicounty regional multidistrict agreements.

~~(5)(7) As used in this title, “multidistrict cooperative” means a public entity created by two or more school districts executing a multidistrict agreement under this section or any school district or other public entity participating in an interlocal cooperative agreement under the provisions of Title 20, chapter 9, part 7, as either a coordinating or a cooperating agency with each other or with any other public or private entity participating in the cooperative and complying with the requirements of this section and other laws governing public schools in the state.”~~

Section 2. Section 20-9-306, MCA, is amended to read:

“20-9-306. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) “BASE” means base amount for school equity.

(2) “BASE aid” means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district;

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;

(c) the total quality educator payment;

(d) the total at-risk student payment;

(e) the total Indian education for all payment;

(f) the total American Indian achievement gap payment;

(g) the total data-for-achievement payment; and

(h) the special education allowable cost payment.

(3) “BASE budget” means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, 100% of the total data-for-achievement payment, and 140% of the special education allowable cost payment.

(4) “BASE budget levy” means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) “BASE funding program” means the state program for the equitable distribution of the state’s share of the cost of Montana’s basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) “Basic entitlement” means:

(a) for each high school district:

(i) \$343,483 for fiscal year 2024 and \$353,787 for each succeeding fiscal year for school districts with an ANB of 800 or fewer; and

(ii) \$343,483 for fiscal year 2024 and \$353,787 for each succeeding fiscal year for school districts with an ANB of more than 800, plus \$17,175 for fiscal year 2024 and \$17,690 for each succeeding fiscal year for each additional 80 ANB over 800;

(b) for each elementary school district or K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(ii) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,863 for fiscal year 2024 and \$2,949 for each succeeding fiscal year for each additional 25 ANB over 250;

(c) for each elementary school district or K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) for the district's kindergarten through grade 6 elementary program:

(A) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(B) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,863 for fiscal year 2024 and \$2,949 for each succeeding fiscal year for each additional 25 ANB over 250; and

(ii) for the district's approved and accredited junior high school, 7th and 8th grade programs, or middle school:

(A) \$114,493 for fiscal year 2024 and \$117,928 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of 450 or fewer; and

(B) \$114,493 for fiscal year 2024 and \$117,928 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of more than 450, plus \$5,724 for fiscal year 2024 and \$5,896 for each succeeding fiscal year for each additional 45 ANB over 450.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, the total data-for-achievement payment, and the greater of the district's special education allowable cost payment multiplied by:

(a) 175%; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and within the general fund budget limits established in 20-9-308 and calculated as provided in 20-9-141.

(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying \$235 for fiscal year 2024 and \$242 for each

succeeding fiscal year times the number of American Indian students enrolled in the district as provided in 20-9-330.

(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.

(13) "Total data-for-achievement payment" means the payment provided in 20-9-325 resulting from multiplying \$22.89 for fiscal year 2024 and \$23.58 for each succeeding fiscal year by the district's ANB calculated in accordance with 20-9-311.

(14) "Total Indian education for all payment" means the payment resulting from multiplying \$23.91 for fiscal year 2024 and \$24.63 for each succeeding fiscal year times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

(15) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of \$7,840 for fiscal year 2024 and \$8,075 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of \$6,123 for fiscal year 2024 and \$6,307 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

(i) a maximum rate of \$6,123 for fiscal year 2024 and \$6,307 for each succeeding fiscal year for the first ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of \$7,840 for fiscal year 2024 and \$8,075 for each succeeding fiscal year for the first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(16) (a) "Total quality educator payment" means the payment resulting from multiplying \$3,566 for fiscal year 2024 and \$3,673 for each succeeding fiscal year by the sum of:

(a)(i) the number of full-time equivalent educators as provided in 20-9-327; and

(b)(ii) as provided in 20-9-324, for a school district meeting the legislative goal for competitive base pay of teachers, the number of full-time equivalent teachers that were in the first 3 years of the teacher's teaching career in the previous year.

(b) *The total quality educator payment for a district meeting the legislative goal for countywide resource sharing under 20-3-363 must have its total quality educator payment under subsection (16)(a) of this section increased by 50% as described in 20-3-363.*

(17) “Total special education allocation” means the state payment distributed pursuant to 20-9-321 that is the greater of the amount resulting from multiplying \$293.74 for fiscal year 2024 and \$302.55 for each succeeding fiscal year by the statewide current year ANB or the amount of the previous year’s total special education allocation.”

Section 3. Effective date. [This act] is effective July 1, 2025.

Approved May 8, 2025

CHAPTER NO. 493

[HB 568]

AN ACT ESTABLISHING THE MONTANA HUNTERS FIRST ACT; CREATING A STUDY OF IMPACTS ON MONTANA’S HUNTING SEASONS RELATED TO BLOCK MANAGEMENT, SEASON STRUCTURE, AND RESIDENT AND NONRESIDENT LICENSE ALLOCATION; ASSIGNING RESPONSIBILITY FOR THE STUDY TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; DEFINING THE SCOPE OF THE STUDY; REQUIRING A PUBLISHED REPORT THAT INCLUDES RECOMMENDATIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

WHEREAS, there has been a steady growth in nonresident hunting license sales and hunting pressure on publicly accessible lands; and

WHEREAS, Montana’s significant population growth necessitates a detailed assessment of hunting season structure after 40 years; and

WHEREAS, there has been a decline of roughly 1 million acres in the amount of private land enrolled in the block management program over the past 10 years, concentrating hunters on smaller amounts of publicly accessible lands; and

WHEREAS, hunter success rates have been steadily falling, while hunter use days have been steadily increasing; and

WHEREAS, public sentiment indicates that Montana’s wildlife resources are being strained by a variety of factors; and

WHEREAS, landowner fatigue with the current hunting season structure relative to elk hunting opportunities is setting in; and

WHEREAS, the wildlife of Montana belongs to all citizens; and

WHEREAS, the process of finding solutions to the issues surrounding the current management of hunting seasons, including resident and nonresident license allocation, should include all stakeholders.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 and 2] may be cited as the “Montana Hunters First Act”.

Section 2. Nonresident hunting impact study. (1) The department of fish, wildlife, and parks shall conduct a study of nonresident impacts on deer, elk, upland game bird, and water fowl hunting in the state and in each of the fish and wildlife commission’s administrative regions.

(2) The study must utilize a range of data, including but not limited to hunter days, harvest reporting, use of lands that are part of hunting access programs, hunting pressure on public lands, elk and deer population trends, and licensing.

(3) Upon completion of the study, the department shall publish a report that is accessible to the public. The report must include:

(a) a comprehensive assessment of the data as it relates to nonresident impacts on deer and elk hunting in the state and in each of the commission's administrative regions;

(b) specific information about the methods used for collecting or acquiring data used in the report; and

(c) the identification of specific issues for consideration by the legislature, department, and commission concerning nonresident impacts on deer and elk hunting.

(4) The study and report must be completed by December 1, 2026.

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Termination. [Sections 1 and 2] terminate December 31, 2026.

Approved May 8, 2025

CHAPTER NO. 494

[HB 571]

AN ACT REVISING AERONAUTICS LAWS RELATED TO THE USE OF AUTOMATIC DEPENDENT SURVEILLANCE-BROADCASTS; AND PROVIDING DEFINITIONS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Automatic dependent surveillance-broadcasts.

(1) For aircraft as defined in subsection (2)(a), no entity, whether a division of government or a private company or corporation, may use information broadcast or collected by automatic dependent surveillance-broadcast systems, whether that data originates from ADS-B In or ADS-B Out, as a means for calculating, generating, and collecting fees from aircraft owners or operators who operate aircraft within the geographic boundaries of the state.

(2) For the purposes of this section, the following definitions apply:

(a) "Aircraft" has the same meaning as provided in 67-1-101, except the aircraft must have a gross weight of 9,000 pounds or less and operate under Title 14, part 91, Code of Federal Regulations.

(b) "Automatic dependent surveillance-broadcast" means an advanced aviation surveillance technology that combines an aircraft's positioning source, aircraft avionics, and a ground infrastructure to create an accurate surveillance interface between an aircraft and air traffic control. The term consists of two different services, ADS-B In and ADS-B Out, that can provide information, such as an aircraft's global positioning system location, altitude, ground speed, and other data, to ground stations and other aircraft, as well as weather and traffic information to aircraft operators.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 67, chapter 1, part 1, and the provisions of Title 67, chapter 1, part 1, apply to [section 1].

Approved May 8, 2025

CHAPTER NO. 495

[HB 574]

AN ACT AUTHORIZING IMPLEMENTATION OF THE CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINIC MODEL; ESTABLISHING DUTIES OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; ESTABLISHING REQUIREMENTS AND PERFORMANCE MEASURES FOR CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINIC SERVICES; ESTABLISHING REPORTING REQUIREMENTS; DIRECTING THE DEPARTMENT TO DEVELOP AN INCENTIVE PROGRAM FOR CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINICS THAT DEMONSTRATE EXCEPTIONAL OUTCOMES; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Certified community behavioral health clinics – department duties – reporting requirement. (1) Subject to available funding, the department shall establish a program no later than October 1, 2026, for the implementation of certified community behavioral health clinics that meet the requirements of Public Law 113-93 and related federal regulations and guidance.

(2) In determining the reimbursement rate for a certified community behavioral health clinic under the healthy Montana kids plan provided for under Title 53, chapter 4, part 11, and the medical assistance program provided for in Title 53, chapter 6, the department shall:

(a) establish and execute clear criteria of the costs that are allowed and disallowed in the development of the encounter rate to be paid to a certified community behavioral health clinic under a prospective payment system;

(b) establish and execute a detailed plan for analyzing cost reports submitted by providers seeking to become certified community behavioral health clinics to ensure that the encounter rate developed for the provider accurately reflects the actual costs of providing care and that disallowed costs are not included in the rate; and

(c) rebase the rate in accordance with federal guidance, but no less frequently than every 2 years.

(3) The department shall monitor and evaluate certified community behavioral health clinic services, outcomes, and impacts. Monitoring and evaluation efforts include:

(a) developing and implementing a plan to reduce duplicative billing of services, fraud, waste, and abuse;

(b) establishing quality measures for certified community behavioral health clinics and reviewing data on quality measures reported by each certified community behavioral health clinic;

(c) establishing the circumstances under which a certified community behavioral health clinic would lose its certification; and

(d) determining the costs to the medicaid program or other state-funded programs of providing behavioral health care services in a community or region before implementation of the certified community behavioral health clinic program and the costs, including any cost reductions, or providing those services after implementation of the certified community behavioral health clinic program. The costs must include payment for hospitalizations and emergency department visits.

(4) The department shall provide quarterly updates in accordance with 5-11-210 to the children, families, health, and human services interim committee and the health and human services interim budget committee on:

(a) the status of implementation of certified community behavioral health clinics;

(b) the impacts of implementation on services for individuals with behavioral health needs;

(c) patient-centered, quality health outcomes;

(d) the percentage of high users of medicaid services who have reduced use of medicaid-funded services;

(e) the community-level and state-level costs and cost savings related to certified community behavioral health clinics; and

(f) any additional evaluation metrics required by the centers for medicare and medicaid services.

Section 2. Certified community behavioral health clinic requirements – billing practices – performance measurements. (1) In addition to the services required under federal law and regulation, a certified community behavioral health clinic shall directly provide the following services:

(a) targeted case management;

(b) peer and family caregiver services and supports; and

(c) outreach and education as specified in subsection (5).

(2) A certified community behavioral health clinic may directly provide or contract with a third party to provide the following services:

(a) primary care screening and monitoring;

(b) services for veterans and members of the armed forces; and

(c) outpatient psychiatric rehabilitation services.

(3) A certified community behavioral health clinic shall coordinate with other community-based service providers to prevent duplication of services and develop a continuum of services within the community.

(4) (a) If a screening indicates that a person is in urgent need of services, a certified community behavioral health clinic shall provide clinical services and an initial evaluation within 1 business day of the first contact with the patient.

(b) A certified community behavioral health clinic shall provide a new patient with a comprehensive person-centered and family-centered diagnostic and treatment planning evaluation. The evaluation must be completed within 30 calendar days of the patient's first request for services.

(5) A certified community behavioral health clinic shall provide outreach and education by:

(a) establishing an outreach team to work in partnership with hospitals and critical access hospitals to encourage individuals presenting with behavioral health needs at an emergency department to obtain ongoing behavioral health treatment through the clinic to reduce the need for emergency department care;

(b) working with local law enforcement agencies by:

(i) providing opportunities for training to, or attending training with, law enforcement officers in methods for responding to individuals with behavioral health needs; and

(ii) responding directly to individuals who have come into contact with law enforcement because of behavioral health issues; and

(c) designating staff members to encourage the use of the clinic's services by individuals who use a high volume of medicaid resources but who have not been actively receiving behavioral health treatment.

(6) The billing practices of a certified community behavioral health clinic must:

(a) provide that private insurance plans are billed first and that medicaid is billed as a payer of last resort;

(b) include a publicly available, income-based sliding fee scale; and

(c) establish that the certified community behavioral health clinic may not refuse services to a person who is unable to pay.

(7) In addition to any federally required reporting, each certified community behavioral health clinic shall collect and report to the department, in a deidentified manner, data on the following quality measures:

(a) changes in the functional assessment scores of patients; and

(b) baseline and subsequent changes in a patient's:

(i) status as housed or unhoused;

(ii) engagement in work; and

(iii) law enforcement involvement.

(8) A certified community behavioral health clinic that contracts with another provider for services as allowed under federal law and regulations and this section is responsible for:

(a) collecting and reporting on the data required under subsection (7) and any other information required by the department; and

(b) ensuring that the contracted provider follows all applicable state and federal laws and regulations.

Section 3. Incentive program. (1) The department shall develop an incentive program to provide additional financial support to certified community behavioral health clinics that demonstrate exceptional quality outcome measures.

(2) The department shall adopt rules to implement this section.

Section 4. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 53, chapter 21, part 10, and the provisions of Title 53, chapter 21, part 10, apply to [sections 1 through 3].

Section 5. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 496

[HB 576]

AN ACT REVISING FUNDING FOR MEDICAID AND HEALTH AND SUPPORT SERVICES TO CHILDREN AND TO ADULTS WHO ARE AGED, BLIND, OR DISABLED; ALLOWING TOBACCO SETTLEMENT PROCEEDS AND STATE SPECIAL REVENUE FUNDS TO BE USED FOR CERTAIN MEDICAID AND HEALTH AND SUPPORT SERVICES; AND AMENDING SECTIONS 17-6-606 AND 53-4-1115, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-6-606, MCA, is amended to read:

“17-6-606. Tobacco settlement accounts – purpose – uses.

(1) The purpose of this section is to dedicate a portion of the tobacco settlement proceeds to fund statewide programs for tobacco disease prevention *and other health and support services* designed to:

(a) discourage children from starting use of tobacco;

(b) assist adults in quitting use of tobacco; ~~and~~

(c) provide funds for the children's health insurance program; *and*

(d) *provide assistance to children and adults who are aged, blind, or disabled.*

(2) An amount equal to 32% of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for funding statewide programs for tobacco disease prevention designed to prevent children from starting tobacco use and to help adults who want to quit tobacco use. The department of public health and human services shall manage the tobacco disease prevention programs and shall adopt rules to implement the programs. In adopting rules, the department shall consider the standards contained in Best Practices for Comprehensive Tobacco Control Programs--August 1999 or its successor document, published by the U.S. department of health and human services, centers for disease control and prevention.

(3) An amount equal to 17% of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only:

(a) for matching funds to secure the maximum amount of federal funds for:

(i) the Children's Health Insurance Program Act provided for in Title 53, chapter 4, part 10;

(ii) *home visiting through the maternal, infant, and early childhood program established in 42 U.S.C. 711 or Title IV-E prevention services;*

(iii) *the medicaid section 1115 waiver 0148.R07.00 for Montana residents who are elderly or physically disabled; and*

(iv) *the medicaid section 1115 waiver 0208.R07.00 to provide home and community-based services for individuals with developmental disabilities; and*

(b) *to fund services for infants and toddlers with disabilities provided for in 34 CFR 303.13 and through the department of public health and human services' family education support program.*

(4) Funds deposited in a state special revenue account, as provided in subsection (2) or (3), that are not appropriated within 2 years after the date of deposit must be transferred to the trust fund.

(5) The legislature shall appropriate money from the state special revenue accounts provided for in this section for programs for tobacco disease prevention, for the programs referred to in the subsection establishing the account, and for funding the tobacco prevention advisory board.

(6) Programs funded under this section that are private in nature may be funded through contracted services."

Section 2. Section 53-4-1115, MCA, is amended to read:

"53-4-1115. Special revenue account. (1) There is an account in the state special revenue fund to the credit of the department for the purposes provided in subsection (2). There must be paid into the account the amounts collected under 33-2-708(3)(b). Any interest or income derived from the account must be deposited in the account.

(2) Money in the account *may be used only to:*

(a) ~~is to be used solely to~~ cover the number of additional enrollees in the plan that exceeds the number of enrollees as of November 4, 2008, within the limits provided in 53-4-1004, 53-6-131, and this part; and to cover the costs of enrollment, including premium assistance, under 53-4-1108(1), and to pay administrative costs associated with expanded eligibility, and to establish and maintain a reserve; ~~and~~

(b) ~~may be used only to~~ match federal funds available under:

(i) the children's health insurance program and the Montana medicaid program;

(ii) *home visiting through the maternal, infant, and early childhood program established in 42 U.S.C. 711 or Title IV-E prevention services;*

(iii) *the medicaid section 1115 waiver 0148.R07.00 for Montana residents who are elderly or physically disabled; and*

(iv) *the medicaid section 1115 waiver 0208.R07.00 to provide home and community-based services for individuals with developmental disabilities; and*

(c) *to fund services for infants and toddlers with disabilities provided for in 34 CFR 303.13 and through the department of public health and human services' family education support program.*

(3) The unexpended balance of an appropriation from the account must remain in the account and may be used only for the purposes stated in subsection (2).

(4) The special revenue account does not affect and is not exclusive of any other sources of funding for the programs described in 53-4-1104(2), including the special revenue account provided for in 53-4-1012.

(5) If the department determines that there is insufficient funding for the purposes of subsection (2), it may reduce eligibility requirements for participants in the children's health insurance program as provided in 53-4-1004(4)."

Approved May 8, 2025

CHAPTER NO. 497

[HB 580]

AN ACT CLARIFYING WATER RIGHT ABANDONMENT LAWS TO ADDRESS A REDUCTION IN USE OR THE NONUSE OF AN APPROPRIATION RIGHT DURING PERIODS OF DROUGHT; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 85-2-404, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 85-2-404, MCA, is amended to read:

"85-2-404. Abandonment of appropriation right. (1) If an appropriator ceases to use all or a part of an appropriation right with the intention of wholly or partially abandoning the right or if the appropriator ceases using the appropriation right according to its terms and conditions with the intention of not complying with those terms and conditions, the appropriation right is, to that extent, considered abandoned and must immediately expire.

(2) If an appropriator ceases to use all or part of an appropriation right or ceases using the appropriation right according to its terms and conditions for a period of 10 successive years and there was water available for use, there is a prima facie presumption that the appropriator has abandoned the right for the part not used.

(3) If an appropriator ceases to use all or part of an appropriation right in compliance with a candidate conservation agreement initiated pursuant to 50 CFR 17.32 or because the land to which the water is applied to a beneficial use is contracted under a state or federal conservation set-aside program:

(a) the set-aside and resulting reduction in use of the appropriation right does not represent an intent by the appropriator to wholly or partially abandon the appropriation right or to not comply with the terms and conditions attached to the right; and

(b) the period of nonuse that occurs for part or all of the appropriation right as a result of the contract may not create or may not be added to any previous period of nonuse to create a prima facie presumption of abandonment.

(4) (a) If an appropriator ceases to use all or part of an appropriation right during a drought, the reduction in use or the nonuse of the appropriation right does not by itself represent an intent by the appropriator to wholly or partially abandon the appropriation right or to not comply with the terms and conditions attached to the appropriation right if:

(i) the place of diversion or use is within a county experiencing D1 moderate drought or worse, as designated by the United States drought monitor; and

(ii) the reduction in use or the nonuse is made in compliance with a local, regional, or state drought plan filed with the department that identifies a metric or criterion that compels the voluntary reduction or cessation of water diversions in a geographic area or for water rights included in the drought plan.

(b) The owner of a water right who reduces or ceases all or part of the use of the water right in accordance with this subsection (4) shall file a report on a form prescribed by the department by December 30 of the year in which the water right use was reduced or ceased.

~~(4)~~(5) The lease of an existing right pursuant to 85-2-436 or a temporary change in appropriation right pursuant to 85-2-407 or 85-2-408 does not constitute an abandonment or serve as evidence that could be used to establish an abandonment of any part of the right.

~~(5)~~(6) Subsections (1) and (2) do not apply to existing rights until they have been finally determined in accordance with part 2 of this chapter.”

Approved May 8, 2025

CHAPTER NO. 498

[HB 582]

AN ACT REVISING LAWS RELATED TO SENTENCING; ALLOWING THE DISTRICT COURT TO DENY ELAPSED TIME CREDIT FOR REVOCATION PROCEEDINGS REGARDING MULTIPLE VIOLATIONS; PROVIDING THAT OFFENDERS ARE ELIGIBLE FOR CREDIT FOR TIME SERVED PRIOR TO SENTENCING AS LONG AS THE CUSTODY TO BE CREDITED IS ATTRIBUTABLE TO PROCEEDINGS RELATED TO THE SAME CONDUCT FOR WHICH THE DEFENDANT HAS BEEN CONVICTED; AMENDING SECTIONS 46-18-201, 46-18-203, AND 46-18-403, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-18-201, MCA, is amended to read:

“46-18-201. Sentences that may be imposed. (1) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may defer imposition of sentence, except as otherwise specifically provided by statute, for a period:

(i) not exceeding 1 year for a misdemeanor or for a period not exceeding 3 years for a felony; or

(ii) not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony if a financial obligation is imposed as a condition of sentence for either the misdemeanor or the felony, regardless of whether any other conditions are imposed.

(b) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of an offender who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

(2) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may suspend execution of sentence, except as provided in subsection (2)(b) or as otherwise specifically provided by statute, for a period up to the maximum sentence allowed or for a period of 6 months, whichever is greater, for each particular offense.

(b) (i) Except as provided in subsections (2)(b)(ii) and (2)(b)(iii), a sentencing judge may not suspend execution of sentence, including when imposing a sentence under subsection (3)(a)(vii), in a manner that would result in an offender being supervised in the community as a probationer by the department of corrections for a period of time longer than:

(A) 20 years for a sexual offender, as defined in 46-23-502;

(B) 20 years for an offender convicted of deliberate homicide, as defined in 45-5-102, or mitigated homicide, as defined in 45-5-103;

(C) 15 years for a violent offender, as defined in 46-23-502, an offender convicted of negligent homicide, as defined in 45-5-104, vehicular homicide while under the influence, as defined in 45-5-106, or criminal distribution of dangerous drugs that results in the death of an individual from use of the dangerous drug, as provided in 45-9-101(5);

(D) 10 years for an offender convicted of 45-9-101, 45-9-103, 45-9-107, 45-9-109, 45-9-110, 45-9-125, 45-9-127, or 45-9-132; or

(E) 5 years for all other felony offenses.

(ii) The provisions of subsections (2)(b)(i)(A) and (2)(b)(i)(B) do not apply if the sentencing judge finds that a longer term of supervision is needed for the protection of society or the victim. The sentencing judge shall state as part of the sentence and the judgment the reasons a longer suspended sentence is needed to protect society or the victim.

(iii) The provisions of subsections (2)(b)(i)(A) and (2)(b)(i)(B) do not apply to violations of 45-6-301 if the amount of restitution ordered exceeds \$50,000.

(3) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may impose a sentence that may include:

(i) a fine as provided by law for the offense;

(ii) payment of costs, as provided in 46-18-232, or payment of costs of assigned counsel as provided in 46-8-113;

(iii) a term of incarceration, as provided in Title 45 for the offense, at a county detention center or at a state prison to be designated by the department of corrections;

(iv) commitment of:

(A) an offender not referred to in subsection (3)(a)(iv)(B) to the department of corrections with a recommendation for placement in an appropriate correctional facility or program; however, all but the first 5 years of the commitment to the department of corrections must be suspended, except as provided in 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-625(4), and 45-5-711; or

(B) a youth transferred to district court under 41-5-206 and found guilty in the district court of an offense enumerated in 41-5-206 to the department of corrections for a period determined by the court for placement in an appropriate correctional facility or program;

(v) chemical treatment of sexual offenders, as provided in 45-5-512, if applicable, that is paid for by and for a period of time determined by the department of corrections, but not exceeding the period of state supervision of the person;

(vi) commitment of an offender to the department of corrections with the requirement that immediately subsequent to sentencing or disposition

the offender is released to community supervision and that any subsequent violation must be addressed as provided in 46-23-1011 through 46-23-1015; or

(vii) any combination of subsection (2) and this subsection (3)(a).

(b) A court may permit a part or all of a fine to be satisfied by a donation of food to a food bank program.

(4) When deferring imposition of sentence or suspending all or a portion of execution of sentence, the sentencing judge may impose on the offender any reasonable restrictions or conditions during the period of the deferred imposition or suspension of sentence. Reasonable restrictions or conditions imposed under subsection (1)(a) or (2) may include but are not limited to:

(a) limited release during employment hours as provided in 46-18-701;

(b) incarceration in a detention center not exceeding 180 days;

(c) conditions for probation;

(d) payment of the costs of confinement;

(e) payment of a fine and accrued interest as provided in 46-18-231;

(f) payment of costs as provided in 46-18-232 and 46-18-233;

(g) payment of costs of assigned counsel as provided in 46-8-113;

(h) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321;

(i) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available and that the offender is a suitable candidate, an order that the offender be placed in a chemical dependency treatment program, prerelease center, or prerelease program for a period not to exceed 1 year;

(j) community service;

(k) home arrest as provided in Title 46, chapter 18, part 10;

(l) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

(m) participation in a day reporting program provided for in 53-1-203;

(n) participation in the 24/7 sobriety and drug monitoring program provided for in Title 44, chapter 4, part 12, for a violation of aggravated driving under the influence as defined in 61-8-1001, a violation of 61-8-1002, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime or for a violation of any statute involving domestic abuse or the abuse or neglect of a minor if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime regardless of whether the charge or conviction was for a first, second, or subsequent violation of the statute;

(o) participation in a restorative justice program approved by court order and payment of a participation fee of up to \$150 for program expenses if the program agrees to accept the offender;

(p) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of the victim or society;

(q) with approval of the program and confirmation by the department of corrections that space is available, an order that the offender be placed in a residential treatment program; or

(r) any combination of the restrictions or conditions listed in this subsection (4).

(5) In addition to any other penalties imposed, if a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere and the sentencing judge finds that a victim, as defined in 46-18-243, has sustained a pecuniary loss, the sentencing judge shall, as part of the sentence, require payment of full restitution and interest to the victim, as provided

in 46-18-241 through 46-18-249, whether or not any part of the sentence is deferred or suspended.

(6) (a) Except as provided in subsection (6)(b), in addition to any of the penalties, restrictions, or conditions imposed pursuant to subsections (1) through (5), the sentencing judge may include the suspension of the license or driving privilege of the person to be imposed upon the failure to comply with any penalty, restriction, or condition of the sentence. A suspension of the license or driving privilege of the person must be accomplished as provided in 61-5-214 through 61-5-217.

(b) A person's license or driving privilege may not be suspended due to nonpayment of fines, costs, or restitution.

(7) In imposing a sentence on an offender convicted of a sexual or violent offense, as defined in 46-23-502, the sentencing judge may not waive the registration requirement provided in Title 46, chapter 23, part 5.

(8) If a felony sentence includes probation, the department of corrections shall supervise the offender unless the court specifies otherwise.

~~(9) When imposing a sentence under this section that includes incarceration in a detention facility or the state prison, as defined in 53-30-101, the court shall provide credit for time served by the offender before trial or sentencing.~~

~~(10)~~(9) As used in this section, "dangerous drug" has the meaning provided in 50-32-101."

Section 2. Section 46-18-203, MCA, is amended to read:

"46-18-203. Revocation of suspended or deferred sentence. (1) Upon the filing of a petition for revocation showing probable cause that the offender has violated any condition of a sentence, any condition of a deferred imposition of sentence, or any condition of supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-625(4), or 45-5-711, the judge may issue an order for a hearing on revocation. The order must require the offender to appear at a specified time and place for the hearing and be served by delivering a copy of the petition and order to the offender personally. The judge may also issue an arrest warrant directing any peace officer or a probation and parole officer to arrest the offender and bring the offender before the court.

(2) The petition for a revocation must be filed with the sentencing court either before the period of suspension or deferral has begun or during the period of suspension or deferral but not after the period has expired. Expiration of the period of suspension or deferral after the petition is filed does not deprive the court of its jurisdiction to rule on the petition.

(3) The provisions pertaining to bail, as set forth in Title 46, chapter 9, are applicable to persons arrested pursuant to this section.

(4) Without unnecessary delay and no more than 60 days after arrest, the offender must be brought before the judge, and at least 10 days prior to the hearing the offender must be advised of:

(a) the allegations of the petition;

(b) the opportunity to appear and to present evidence in the offender's own behalf;

(c) the opportunity to question adverse witnesses; and

(d) the right to be represented by counsel at the revocation hearing pursuant to Title 46, chapter 8, part 1.

(5) A hearing is required before a suspended or deferred sentence can be revoked or the terms or conditions of the sentence can be modified unless:

(a) the offender admits the allegations and waives the right to a hearing; or

(b) the relief to be granted is favorable to the offender and the prosecutor, after having been given notice of the proposed relief and a reasonable

opportunity to object, has not objected. An extension of the term of probation is not favorable to the offender for the purposes of this subsection (5)(b).

(6) (a) At the hearing, the prosecution shall prove, by a preponderance of the evidence, that there has been a violation of:

(i) the terms and conditions of the suspended or deferred sentence; or

(ii) a condition of supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-625(4), or 45-5-711.

(b) However, when a failure to pay restitution is the basis for the petition, the offender may excuse the violation by showing sufficient evidence that the failure to pay restitution was not attributable to a failure on the offender's part to make a good faith effort to obtain sufficient means to make the restitution payments as ordered.

(7) (a) If the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence by committing either compliance violations or noncompliance violations, or both, the judge may:

(i) continue the suspended or deferred sentence without a change in conditions;

(ii) continue the suspended sentence with modified or additional terms and conditions, which may include placement in:

(A) a secure facility designated by the department for up to 9 months; or

(B) a community corrections facility or program designated by the department for up to 9 months, including but not limited to placement in a prerelease center, sanction or hold bed, transitional living program, enhanced supervision program, relapse intervention bed, chemical dependency treatment, or 24/7 sobriety program;

(iii) revoke the suspension of sentence and require the offender to serve either the sentence imposed or any sentence that could have been imposed that does not include a longer imprisonment or commitment term than the original sentence; or

(iv) if the sentence was deferred, impose any sentence that might have been originally imposed.

(b) If a suspended or deferred sentence is revoked, the judge shall:

(i) consider any elapsed time, consult the records and recollection of the probation and parole officer, and allow all of the elapsed time served without any record or recollection of violations as a credit against the sentence. *A district court, in its discretion, may deny elapsed time credit for a reasonable period of time related to a violation or multiple violations. A defendant is not entitled to elapsed time credit for time spent in a correctional institution as defined in 45-2-101. If the judge determines that elapsed time should may not be credited, the judge shall state the reasons for the determination in the order.*

~~(ii) Credit must be allowed for time served in a detention center or for home arrest time already served~~ *allow credit for each day of incarceration or home arrest prior to imposition of a revocation sentence that is directly related to the revocation proceedings pursuant to the limitations in 46-18-403(1)(b).*

(c) If the judge finds that the offender has not violated a term or condition of a suspended or deferred sentence, the judge is not prevented from setting, modifying, or adding conditions of probation as provided in 46-23-1011.

(8) If the judge finds that the prosecution has not proved, by a preponderance of the evidence, that there has been a violation of the terms and conditions of the suspended or deferred sentence, the petition must be dismissed and the offender, if in custody, must be immediately released.

(9) All sanction and placement decisions must be documented in the offender's file.

(10) As used in this section:

(a) “absconding” means when an offender deliberately makes the offender’s whereabouts unknown to a probation and parole officer or fails to report for the purposes of avoiding supervision, and reasonable efforts by the probation and parole officer to locate the offender have been unsuccessful; and

(b) “compliance violation” means a violation of the conditions of supervision that is not:

(i) a new criminal offense;

(ii) possession of a firearm in violation of a condition of probation;

(iii) behavior by the offender or any person acting at the offender’s direction that could be considered stalking, harassing, or threatening the victim of the offense or a member of the victim’s immediate family or support network;

(iv) absconding; or

(v) failure to enroll in or complete a required sex offender treatment program or a treatment program designed to treat violent offenders.

(11) The provisions of this section apply to any offender whose suspended or deferred sentence is subject to revocation regardless of the date of the offender’s conviction and regardless of the terms and conditions of the offender’s original sentence.”

Section 3. Section 46-18-403, MCA, is amended to read:

“46-18-403. Credit for incarceration prior to conviction sentencing.

(1) (a) ~~An incarcerated person incarcerated on a bailable offense~~ against whom a judgment of imprisonment is rendered must be allowed credit for each day of incarceration prior to ~~or after conviction~~ *imposition of a sentence that is directly related to the proceedings that caused the incarceration*, except that the time allowed as a credit may not exceed the term of the prison sentence rendered.

(b) For the purposes of subsection (1)(a);:

(i) *credit must be given only when the custody to be credited is attributable to proceedings related to the same conduct for which the defendant has been convicted;*

(ii) *an offender is not entitled to credit against multiple sentences for a single period of custody unless the sentences are imposed concurrently;*

(iii) *an offender is not entitled to credit in a new criminal matter if the offender is currently serving a custodial sentence on a prior offense;*

(iv) *incarceration directly related to a probation or parole hold only reduces the sentence that the person was serving while on probation or parole; and*

(v) *incarceration includes time spent in a correctional institution as defined in 45-2-101 and a secure residential treatment facility under the order of a court if residence is required by court order.*

(2) ~~An incarcerated person incarcerated on a bailable offense~~ who does not supply bail and against whom a fine is levied ~~on conviction of the offense~~ may be allowed a credit for each day of incarceration prior to ~~conviction~~ *imposition of sentence*, except that the amount allowed or credited may not exceed the amount of the fine. The daily rate of credit for incarceration must be established annually by the board of county commissioners by resolution. The daily rate must be equal to the actual cost incurred by the detention facility for which the rate is established.”

Section 4. Effective date. [This act] is effective July 1, 2025.

Section 5. Applicability. [This act] applies to offenders sentenced on or after [the effective date of this act].

Approved May 8, 2025

CHAPTER NO. 499

[HB 589]

AN ACT GENERALLY REVISING PEACE OFFICER EDUCATION STANDARDS; PROVIDING THAT A QUALIFIED LAW ENFORCEMENT ACADEMY MAY PROVIDE THE PEACE OFFICER BASIC COURSE EDUCATION REQUIREMENT; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-2029 AND 7-32-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-2029, MCA, is amended to read:

“2-15-2029. Montana public safety officer standards and training council – administrative attachment – rulemaking. (1) (a) There is a Montana public safety officer standards and training council. The council is a quasi-judicial board, as provided for in 2-15-124, and is allocated to the department of justice, established in 2-15-2001, for administrative purposes only as provided in 2-15-121, except as provided in subsection (1)(b) of this section.

(b) The council may hire its own personnel and independently administer the conduct of its business, and 2-15-121(2)(a), (2)(d), and (3)(a) do not apply.

(2) The council may adopt rules to implement the provisions of 7-32-303 and Title 44, chapter 4, part 4. Rules must be adopted pursuant to the Montana Administrative Procedure Act.”

Section 2. Section 7-32-303, MCA, is amended to read:

“7-32-303. Peace officer employment, education, and certification standards – suspension or revocation – penalty. (1) For the purposes of this section, unless the context clearly indicates otherwise, *the following definitions apply:*

(a) *“Council” means the Montana public safety officer standards and training council established in 2-15-2029.*

(b) ~~“peace officer”~~ *“Peace officer”* means a deputy sheriff, undersheriff, police officer, highway patrol officer, fish and game warden, park ranger, campus security officer, or airport police officer.

(2) A sheriff of a county, the mayor of a city, a board, a commission, or any other person authorized by law to appoint peace officers in this state may not appoint a person as a peace officer who does not meet the qualifications provided in this subsection (2) plus any additional qualifying standards for employment promulgated by the ~~Montana public safety officer standards and training council established in 2-15-2029~~ *council*. A peace officer must:

(a) be a citizen of the United States;

(b) be at least 18 years of age;

(c) be fingerprinted and a search made of the local, state, and national fingerprint files to disclose any criminal record;

(d) not have been convicted of a crime for which the person could have been imprisoned in a federal or state penitentiary;

(e) be of good moral character, as determined by a thorough background investigation;

(f) be a high school graduate or have been issued a high school equivalency diploma by the superintendent of public instruction or by an appropriate issuing agency of another state or of the federal government;

(g) be free of any mental condition that might adversely affect performance of the duties of a peace officer, as determined after:

(i) a mental health evaluation performed by a licensed physician or a mental health professional who is licensed by the state under Title 37, who is acting within the scope of the person's licensure when performing a mental health evaluation, who is not the applicant's personal physician or licensed mental health professional, and who is selected by the employing authority; or

(ii) satisfactory completion of a standardized mental health evaluation instrument determined by the employing authority to be sufficient to examine for any mental conditions within the meaning of this subsection (2)(g), if the instrument is scored by a licensed physician or a mental health professional acting within the scope of the person's licensure by a state;

(h) be free of any physical condition that might adversely affect performance of the duties of a peace officer, as determined after satisfactory completion of a physical examination performed by a health care provider who is licensed by the state under Title 37 and acting within the scope of the person's licensure when performing the physical examination, who is not the applicant's personal health care provider, and who is selected by the employing authority;

(i) have successfully completed an oral examination conducted by the appointing authority or its designated representative to demonstrate the possession of communication skills, temperament, motivation, and other characteristics necessary to the accomplishment of the duties and functions of a peace officer;

(j) possess or be eligible for a valid Montana driver's license; and

(k) be certified or be eligible for certification as a peace officer by the council or become eligible for certification upon completion of the requirements contained in subsections (6) through (10).

(3) At the time of appointment, a peace officer shall take the formal oath of office prescribed in Article III, section 3, of the Montana constitution. No other oath may be required.

(4) Within 10 days of the appointment, termination, resignation, or death of a peace officer, written notice of the event must be given to the ~~Montana public safety officer standards and training~~ council by the employing authority.

(5) It is the duty of an appointing authority in Montana to ensure that each peace officer appointed under its authority has the basic training, including any training required in subsections (6) through (8), in addition to meeting all other requirements of peace officer certification promulgated by the ~~Montana public safety officer standards and training~~ council. Any peace officer appointed after September 30, 1983, who fails to meet the minimum requirements as set forth in subsection (2) or who fails to complete the basic training required by subsections (6) through (8) forfeits the position, authority, and arrest powers accorded a peace officer in this state.

(6) (a) Except as provided in subsections (7) and (8), a peace officer shall successfully complete the peace officer basic course *as approved by the council* at:

(i) the Montana law enforcement academy; or

(ii) *a law enforcement academy administered by an accredited Montana college or university whose curriculum and methods of training for officers and other individuals attending the academy are approved by both a Montana state or local law enforcement agency and the council. The curriculum and the methods of training under this subsection (6)(a)(ii) must be commensurate with the peace officer basic course held at the Montana law enforcement academy, as approved by the council;*

(b) *A peace officer shall complete the peace officer basic course pursuant to subsection (6)(a) within 1 year of:*

(a)(i) the peace officer's initial appointment as a peace officer; or

(b)(ii) the peace officer's most recent appointment as a peace officer if the peace officer has had a break in service as a peace officer of more than 5 years.

(7) (a) If a peace officer previously satisfied the requirement in subsection (6), is certified or is eligible for certification as a peace officer in Montana or may become eligible for certification upon completion of the probationary period in subsection (10), and has had a break in service as a peace officer of less than 3 years, the peace officer is not required to satisfy the requirement in subsection (6) or to attend an equivalency course prior to returning to work in Montana as a peace officer.

(b) If a peace officer previously satisfied the requirement in subsection (6), is certified or is eligible for certification as a peace officer in Montana or may become eligible for certification upon completion of the probationary period in subsection (10), and has been continuously employed as a peace officer outside of Montana for no more than 3 years, the peace officer is not required to satisfy the requirement in subsection (6) or to attend an equivalency course prior to returning to work in Montana as a peace officer.

(c) If a peace officer previously completed the peace officer basic course *as provided in subsection (6)* successfully, is certified or is eligible for certification as a peace officer in Montana or may become eligible for certification upon completion of the probationary period in subsection (10), and has been continuously employed as a peace officer outside of Montana for more than 3 years or who has had a break in service as a peace officer for more than 3 years but less than 5 years, the peace officer shall successfully complete the peace officer basic equivalency course, as approved by the council, within 1 year of the peace officer's most recent appointment as a peace officer in Montana. If the peace officer fails the basic equivalency course, the officer shall satisfy the requirement in subsection (6) at the next available opportunity.

(d) If a person satisfied the requirement in subsection (6) prior to the person's appointment or employment and is hired or appointed as a peace officer more than 3 years but less than 5 years after the date that the person satisfied the requirement in subsection (6), the person shall successfully complete the peace officer basic equivalency course, as approved by the council, within 1 year of the person's most recent appointment or employment as a peace officer. If the person is not appointed or employed as a peace officer within 5 years after the date of the person's successful completion of the requirement in subsection (6), the person shall satisfy the requirement in subsection (6) within 1 year of the person's most recent appointment or employment as a peace officer in Montana.

(8) (a) Except as provided in subsection (8)(c), if a peace officer has successfully completed a peace officer basic course that is taught or approved by a federal, state, local, or United States military law enforcement agency, that satisfies the peace officer basic training requirement for that agency, and that the council has reviewed and approved as commensurate with the *a* current peace officer basic course offered at the Montana law enforcement academy pursuant to subsection (6), the peace officer shall successfully complete the peace officer basic equivalency course, as approved by the council, within 1 year of the officer's initial appointment in Montana. If the officer fails the basic equivalency course, the officer must satisfy the requirement in subsection (6) at the next available opportunity.

(b) Except as provided in subsection (8)(c), if a peace officer has successfully completed a peace officer basic course that is taught or approved by a federal, state, local, or United States military law enforcement agency and that satisfies the peace officer basic training requirement for that agency and if that peace officer's combined training and experience have been reviewed and approved

by the council as commensurate with the ~~a~~ current peace officer basic course offered ~~at the Montana law enforcement academy pursuant to subsection (6),~~ the peace officer shall successfully complete the peace officer basic equivalency course, as approved by the council, within 1 year of the officer's initial appointment in Montana. If the officer fails the basic equivalency course, the officer must satisfy the requirement in subsection (6) at the next available opportunity.

(c) If the peace officer has had a break in service as a peace officer for more than 5 years, the officer shall complete the requirement of subsection (6) within 1 year of the officer's initial appointment as a peace officer in Montana.

(9) ~~The Montana public safety officer standards and training council~~ may extend the 1-year time requirements of subsections (6) through (8) upon the written application of the appointing authority of the officer. The application must explain the circumstances that make the extension necessary. Factors that the council may consider in granting or denying the extension include but are not limited to illness of the peace officer or a member of the peace officer's immediate family, absence of reasonable access to the basic equivalency course, and an unreasonable shortage of personnel within the department. The council may not grant an extension to exceed 180 days.

(10) A peace officer who has successfully met the training, employment, and educational standards of this section, has successfully met the training and employment standards set by the council, and has completed a 1-year probationary term of employment must be issued a peace officer basic certificate by the council certifying that the peace officer has met all of the basic qualifying peace officer standards of this state.

(11) It is unlawful for a person whose basic certification as a peace officer has been revoked or denied by the Montana public safety officer standards and training council for misconduct to act as a peace officer. It is unlawful for a person whose peace officer basic certification has been suspended by the council to act or be appointed or employed as a peace officer in Montana during the period in which the certification is suspended. A person convicted of violating this subsection is guilty of a misdemeanor, punishable by a term of imprisonment not to exceed 6 months in the county jail or by a fine not to exceed \$500, or both.

(12) *The council may adopt rules to implement the provisions of this section as provided in 2-15-2029. The rules must be adopted pursuant to the Montana Administrative Procedure Act."*

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 500

[HB 636]

AN ACT GENERALLY REVISING MARIJUANA LAWS; RESTRICTING EDIBLE MARIJUANA PRODUCT THC SERVING SIZE AND SERVINGS A PACKAGE; AMENDING SECTION 16-12-224, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 16-12-224, MCA, is amended to read:

"16-12-224. Licensing of dispensaries. (1) Except as provided in 16-12-201(2), an applicant for a dispensary license shall demonstrate that

the local government approval provisions in 16-12-301 have been satisfied in the jurisdiction where each proposed dispensary is located if the proposed dispensary would be located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(2) When evaluating an initial or renewal application, the department shall evaluate each proposed dispensary for compliance with the provisions of 16-12-207 and 16-12-210.

(3) An adult-use dispensary licensee may operate at a shared location with a medical marijuana dispensary if the adult-use dispensary and medical marijuana dispensary are owned by the same person.

(4) A medical marijuana dispensary is authorized to sell exclusively to registered cardholders marijuana, marijuana products, and live marijuana plants.

(5) An adult-use dispensary is authorized to sell marijuana, marijuana products, and live marijuana plants to consumers or registered cardholders.

(6) (a) The department shall charge a dispensary license fee for an initial application and at each renewal.

(b) The dispensary license fee is \$5,000 for the first location that a licensee operates as an adult-use dispensary or a medical marijuana dispensary. The dispensary license fee increases cumulatively by \$5,000 for each additional location under the same license.

(7) The department may adopt rules:

(a) for inspection of proposed dispensaries;

(b) for investigating owners or applicants for a determination of financial interest; and

(c) establishing or limiting the THC content of the marijuana or marijuana products that may be sold at an adult-use dispensary or medical marijuana dispensary.

(8) (a) Marijuana and marijuana products sold at a dispensary are regulated and sold on the basis of the concentration of THC in the products and not by weight.

(b) Except as provided in subsection (8)(d), for purposes of this chapter, a single package is limited to:

(i) for marijuana sold as flower, 1 ounce of usable marijuana. The total potential psychoactive THC of marijuana flower may not exceed 35%.

(ii) for a marijuana product sold as a capsule, no more than 100 milligrams of THC per capsule and no more than 800 milligrams of THC per package.

(iii) for a marijuana product sold as a tincture, no more than 800 milligrams of THC;

(iv) for a marijuana product sold as an edible or a food product, no more than 100 milligrams of THC *a package*. A single serving of an edible marijuana product may not exceed ~~10~~ 5 milligrams of THC.

(v) for a marijuana product sold as a topical product, a concentration of no more than 6% THC and no more than 800 milligrams of THC per package;

(vi) for a marijuana product sold as a suppository or transdermal patch, no more than 100 milligrams of THC per suppository or transdermal patch and no more than 800 milligrams of THC per package; and

(vii) for any other marijuana product, no more than 800 milligrams of THC.

(c) There may be a deviation of 10% above or below the allowed amount under subsection (8)(b)(iv).

(d) A dispensary may sell marijuana or marijuana products having higher THC potency levels than described in subsection (8) to registered cardholders.

(9) A licensee or employee is prohibited from conducting a transaction that would result in a consumer or registered cardholder exceeding the personal possession amounts set forth in 16-12-106 and 16-12-515.”

Section 2. Effective date. [This act] is effective July 1, 2026.

Approved May 8, 2025

CHAPTER NO. 501

[HB 668]

AN ACT REVISING ALCOHOL LAWS TO PROHIBIT THE LICENSE OF AN ENLISTED PERSONS’, NONCOMMISSIONED OFFICERS’, OR OFFICERS’ CLUB LOCATED ON A STATE OR FEDERAL MILITARY RESERVATION OR A POST OF A NATIONALLY CHARTERED VETERANS’ ORGANIZATION OR A LODGE OF A RECOGNIZED NATIONAL FRATERNAL ORGANIZATION FROM OFFERING GAMBLING AS PROVIDED UNDER TITLE 23, CHAPTER 5, PARTS 3, 5, OR 6; AMENDING SECTION 23-5-119, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 23-5-119, MCA, is amended to read:

“23-5-119. Appropriate alcoholic beverage license for certain gambling activities. (1) Except as provided in subsection (3), to be eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6, an applicant must own in the applicant’s name:

(a) a retail all-beverages license issued under 16-4-201, but the owner of a license transferred after July 1, 2007, pursuant to 16-4-204 is not eligible to offer gambling. *Licenses issued under 16-4-201(8)(c) after [the effective date of this act] may not offer gambling activities;*

(b) except as provided in subsection (1)(c), a license issued prior to October 1, 1997, under 16-4-105, authorizing the sale of beer and wine for consumption on the licensed premises. *Licenses issued under 16-4-105(1)(e) after [the effective date of this act] may not offer gambling activities;*

(c) a beer and wine license issued in an area outside of an incorporated city or town as provided in 16-4-105(1)(f). The owner of the license whose premises are situated outside of an incorporated city or town may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(d) a retail beer and wine license issued under 16-4-109;

(e) a resort retail all-beverages license issued under 16-4-213; or

(f) a retail all-beverages license issued under 16-4-208.

(2) For purposes of subsection (1)(b), a license issued under 16-4-105 prior to October 1, 1997, may be transferred to a new owner or to a new location or transferred to a new owner and location by the department of revenue pursuant to the applicable provisions of Title 16. The owner of the license that has been transferred may offer gambling if the owner and the premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(3) Lessees of retail all-beverages licenses issued under 16-4-208 or beer and wine licenses issued under 16-4-109 who have applied for and been granted a gambling operator’s license under 23-5-177 are eligible to offer and may be granted permits for gambling authorized under Title 23, chapter 5, part 3, 5, or 6.

(4) A license transferee or a qualified purchaser operating pending final approval under 16-4-433 who has been granted a gambling operator's license under 23-5-177 may be granted permits for gambling under Title 23, chapter 5, part 3, 5, or 6.

(5) A license issued under a competitive bidding process as provided in 16-4-430 is not eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 502

[HB 693]

AN ACT PROVIDING REQUIREMENTS FOR MULTIJUDGE DISTRICTS WITH SPECIALIZED DOCKETS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 3-5-403, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-5-403, MCA, is amended to read:

"3-5-403. Terms and departments in multijudge districts. (1) In each judicial district that has more than one judge, as many terms or sessions of court may be held at the same time as there are judges in the district.

(2) The judges elected or appointed to hold office in each judicial district having more than one judge shall divide the court into departments, prescribe the order of business, and make rules for the government of the court. *In multijudge districts of greater than five judges, the judges of the district may make rules implementing specialized dockets among the departments.* Each department must be numbered, and each judge must be assigned to one of the numbered departments.

(3) The judges shall apportion the business of the court among themselves as equally as possible. In case of their failure for any cause to make the apportionment or to assign each judge to a numbered department, the supreme court, upon application of any interested person, shall make an order apportioning the business and assigning each judge to a numbered department and cause the order to be entered upon the minute book of the district court in each county in the district. The order remains in full force and effect until modified or repealed by the authority making it. The failure or refusal of any district judge to carry out the terms of the order constitutes a contempt of the supreme court."

Approved May 8, 2025

CHAPTER NO. 503

[HB 696]

AN ACT ESTABLISHING LEGISLATIVE APPROVAL OF THE SITING OF URANIUM CONVERSION AND ENRICHMENT FACILITIES FOR URANIUM MINED AND MILLED WITHIN THE STATE OR TRANSPORTED FROM A LOCATION MINED AND MILLED NOT WITHIN THE BOUNDARIES OF THE STATE; AMENDING SECTION 75-20-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Legislative approval of siting of uranium conversion and enrichment facilities – conditions. (1) The legislature hereby authorizes the siting of uranium conversion and enrichment facilities within Montana. A facility is authorized if:

(a) it is operated on the site of and to convert and enrich mined and milled uranium within the state or transported from a location mined and milled not within the boundaries of the state;

(b) the facility has received a state recommendation from the department of environmental quality, pursuant to 75-20-204; and

(c) the facility has received a license to convert and enrich mined and milled uranium from the federal nuclear regulatory commission.

(2) For the purposes of this section:

(a) “uranium conversion” means the process used to convert natural uranium oxide into uranium hexafluoride; and

(b) “uranium enrichment” means the process used to enrich uranium through gaseous diffusion, gas centrifuges, or laser isotope separation.

Section 2. Section 75-20-204, MCA, is amended to read:

“75-20-204. Facilities subject to federal energy regulatory commission and nuclear regulatory commission jurisdiction. (1) For a facility that is subject to the jurisdiction of the federal energy regulatory commission; *or the nuclear regulatory commission as authorized in [section 1]*, the department shall file a state recommendation with the commission.

(2) A person making application to the federal energy regulatory commission *or nuclear regulatory commission as authorized in [section 1]* shall file with the department notice of and a copy of the federal application regarding any facility subject to subsection (1). The state recommendation must be based on its study of the federal application and other material gained through intervention in the federal proceeding.

(3) A person subject to the provisions of subsection (2) shall pay a fee to the department at the time that an application is filed with the federal energy regulatory commission *or nuclear regulatory commission as authorized in [section 1]*. The fee must be used by the department to carry out its responsibilities to develop a state recommendation and participate as a party in any necessary federal proceeding to assert the state recommendation. The fee may not exceed one-half the amount that could be assessed under 75-20-215. A fee prescribed by 75-20-215 may not be assessed against a person paying a fee under this section.

(4) A person who fails to file a timely notice of and a copy of the federal application with the department, preventing the department from timely compliance with this section and with the rules, statutes, or procedures governing the proceedings before the federal energy regulatory commission *or nuclear regulatory commission as authorized in [section 1]*, is subject to the provisions of 75-20-408.”

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 75, chapter 20, and the provisions of Title 75, chapter 20, apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 504

[HB 699]

AN ACT GENERALLY REVISING LAWS RELATED TO THE METAL MINE TAILINGS IMPOUNDMENT PANEL; REVISING THE MEMBERSHIP, QUALIFICATIONS, AND DUTIES OF AN INDEPENDENT REVIEW PANEL FOR A METAL MINE TAILINGS IMPOUNDMENT PLAN; REVISING A DEFINITION; PROVIDING FOR A WRITTEN REPORT FROM A REVIEW PANEL; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 82-4-303, 82-4-335, 82-4-337, 82-4-377, AND 82-4-380, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 82-4-303, MCA, is amended to read:

“82-4-303. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) “Abandonment of surface or underground mining” may be presumed when it is shown that continued operation will not resume.

(2) “Amendment” means a change to an approved operating or reclamation plan. A major amendment is an amendment that may significantly affect the human environment. A minor amendment is an amendment that will not significantly affect the human environment.

(3) “Board” means the board of environmental review provided for in 2-15-3502.

(4) “Certification” means, with regard to tailings storage facilities, a statement of opinion by a professional engineer that the work on a tailings storage facility has been conducted in accordance with the normal standard of care within dam engineering practice. Certification does not constitute a warranty or guarantee of facts or conditions certified.

(5) “Completeness” means that an application contains information addressing each applicable permit requirement as listed in this part or rules adopted pursuant to this part in sufficient detail for the department to make a decision as to adequacy of the application to meet the requirements of this part.

(6) “Constructor” means the company or companies constructing the built components of a tailings storage facility, including but not limited to embankment dams, surface water diversion structures, tailings distribution systems, reclaim water systems, and monitoring instrumentation.

(7) “Cyanide ore-processing reagent” means cyanide or a cyanide compound used as a reagent in leaching operations.

(8) “Department” means the department of environmental quality provided for in 2-15-3501.

(9) “Disturbed land” means the area of land or surface water that has been disturbed, beginning at the date of the issuance of the permit. The term includes the area from which the overburden, tailings, waste materials, or minerals have been removed and tailings ponds, waste dumps, roads, conveyor systems, load-out facilities, leach dumps, and all similar excavations or coverings that result from the operation and that have not been previously reclaimed under the reclamation plan.

(10) “Engineer of record” means a qualified engineer who is the lead designer for a tailings storage facility.

(11) “Expansion” means, with regard to tailings storage facilities, a change in the size, height, or configuration of or a contiguous addition to an existing

tailings storage facility that increases or may increase the storage capacity of the impoundment above the currently permitted capacity.

(12) "Exploration" means:

(a) all activities that are conducted on or beneath the surface of lands and that result in material disturbance of the surface for the purpose of determining the presence, location, extent, depth, grade, and economic viability of mineralization in those lands, if any, other than mining for production and economic exploitation; and

(b) all roads made for the purpose of facilitating exploration, except as noted in 82-4-310.

(13) "Independent review *engineer panel member*" means a:

(a) a licensed engineer who is a recognized expert in tailings storage facility design, construction, operation, and closure; or

(b) *a person who has the education, experience, and qualifications sufficient to be considered a recognized subject matter expert in technical disciplines relevant to tailings storage facility design, construction, operation, and closure who is not a licensed engineer.*

(14) "Material deviation" means a failure to follow a condition in a design document, corrective action plan, schedule, or tailings operation, maintenance, and surveillance manual that could reasonably be expected to substantively impair a tailings storage facility from performing as intended.

(15) "Maximum credible earthquake" means the most severe earthquake that can be expected at a site based on geologic and seismological evidence, including a review of all historic earthquake data of events sufficiently nearby to influence the site, all faults in the area, and attenuations from causative faults to the site.

(16) "Mineral" means any ore, rock, or substance, other than oil, gas, bentonite, clay, coal, sand, gravel, peat, soil materials, or uranium, that is taken from below the surface or from the surface of the earth for the purpose of milling, concentration, refinement, smelting, manufacturing, or other subsequent use or processing or for stockpiling for future use, refinement, or smelting.

(17) "Mining" commences when the operator first mines ores or minerals in commercial quantities for sale, beneficiation, refining, or other processing or disposition or first takes bulk samples for metallurgical testing in excess of the aggregate of 10,000 short tons.

(18) "Observational method" means a continuous, managed, and integrated process of design, construction control, monitoring, and review enabling appropriate, previously defined modifications to be incorporated during and after construction.

(19) "Operator" means a person who has an operating permit issued under 82-4-335.

(20) "Ore processing" means milling, heap leaching, flotation, vat leaching, or other standard hard-rock mineral concentration processes.

(21) "Panel" means the tailings storage facility independent review panel created for each new or expanded tailings storage facility.

(22) "Person" means any person, corporation, firm, association, partnership, or other legal entity engaged in exploration for or mining of minerals on or below the surface of the earth, reprocessing of tailings or waste materials, or operation of a hard-rock mill.

(23) "Placer deposit" means:

(a) naturally occurring, scattered, or unconsolidated valuable minerals in gravel, glacial, eolian, colluvial, or alluvial deposits lying above bedrock; or

(b) all forms of deposit except veins of quartz and other rock in place.

(24) “Placer or dredge mining” means the mining of minerals from a placer deposit by a person or persons.

(25) “Practicable” means available and capable of being implemented after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

(26) “Professional engineer” means a registered professional engineer licensed to practice in Montana under Title 37, chapter 67, part 3.

(27) “Qualified engineer” means a professional engineer who has a minimum of 10 years of direct experience with the design and construction of tailings storage facilities and has the appropriate professional and educational credentials to effectively determine appropriate parameters for the safe design, construction, operation, and closure of a tailings storage facility.

(28) “Reclamation plan” means the operator’s written proposal, as required and approved by the department, for reclamation of the land that will be disturbed. The proposal must include, to the extent practical at the time of application for an operating permit:

(a) a statement of the proposed subsequent use of the land after reclamation, which may include use of the land as an industrial site not necessarily related to mining;

(b) plans for surface gradient restoration to a surface suitable for the proposed subsequent use of the land after reclamation is completed and the proposed method of accomplishment;

(c) the manner and type of revegetation or other surface treatment of disturbed areas;

(d) procedures proposed to avoid foreseeable situations of public nuisance, endangerment of public safety, damage to human life or property, or unnecessary damage to flora and fauna in or adjacent to the area;

(e) the method of disposal of mining debris;

(f) the method of diverting surface waters around the disturbed areas when necessary to prevent pollution of those waters or unnecessary erosion;

(g) the method of reclamation of stream channels and stream banks to control erosion, siltation, and pollution;

(h) maps and other supporting documents that may be reasonably required by the department; and

(i) a time schedule for reclamation that meets the requirements of 82-4-336.

(29) (a) “Rock products” means decorative rock, building stone, riprap, mineral aggregates, and other minerals produced by typical quarrying activities or collected from or just below the ground surface that do not contain sulfides with the potential to produce acid, toxic, or otherwise pollutive solutions.

(b) The term does not include talc, gypsum, limestone, metalliferous ores, gemstones, or materials extracted by underground mining.

(30) (a) “Small miner” means a person, firm, or corporation that engages in mining activity that is not exempt from this part pursuant to 82-4-310, that engages in the business of reprocessing of tailings or waste materials, that, except as provided in 82-4-310, knowingly allows other persons to engage in mining activities on land owned or controlled by the person, firm, or corporation, that does not hold an operating permit under 82-4-343 or 82-4-335 except for a permit issued under 82-4-335(2) or an operating permit that meets the criteria of subsection (30)(c) of this section, and that conducts:

(i) an operation that results in not more than 5 acres of the earth’s surface being disturbed and unreclaimed; or

(ii) two operations that disturb and leave unreclaimed less than 5 acres for each operation if the respective mining properties are:

(A) the only operations engaged in by the person, firm, or corporation; and

(B) at least 1 mile apart at their closest point.

(b) For the purpose of this definition only, the department shall, in computing the area covered by the operation:

(i) exclude access or haulage roads that are required by a local, state, or federal agency having jurisdiction over that road to be constructed to certain specifications if that public agency notifies the department in writing that it desires to have the road remain in use and will maintain it after mining ceases; and

(ii) exclude access roads for which the person, firm, or corporation submits a bond to the department in the amount of the estimated total cost of reclamation along with a description of the location of the road and the specifications to which it will be constructed.

(c) A small miner may hold an operating permit that allows disturbance of 100 acres or less. The permit may be amended to add new disturbance areas, but the total area permitted for disturbance may not exceed 100 acres at any time.

(31) "Soil materials" means earth material found in the upper soil layers that will support plant growth.

(32) (a) "Surface mining" means all or any part of the process involved in mining of minerals by removing the overburden and mining directly from the mineral deposits exposed, including but not limited to open-pit mining of minerals naturally exposed at the surface of the earth, mining by the auger method, and all similar methods by which earth or minerals exposed at the surface are removed in the course of mining.

(b) Surface mining does not include the extraction of oil, gas, bentonite, clay, coal, sand, gravel, peat, soil materials, or uranium or excavation or grading conducted for onsite farming, onsite road construction, or other onsite building construction.

(33) "Tailings" means the residual materials remaining after a milling process that separates the valuable fraction from the uneconomic fraction of an ore mined by an operator.

(34) (a) "Tailings storage facility" means a facility that temporarily or permanently stores tailings, including the impoundment, embankment, tailings distribution works, reclaim water works, monitoring devices, storm water diversions, and other ancillary structures.

(b) The term does not include ~~a facility that:~~

(i) ~~a facility that stores 50 acre-feet or less of the aggregate of tailings, free water, or and process solution;~~

(ii) ~~a facility that is wholly contained below surrounding grade with no man-made structures retaining tailings, water, or process solution or underground mines that use tailings as backfill; or~~

(iii) ~~a facility that is partially below the surrounding grade and partially above the surrounding grade if the portion of the facility that is above the surrounding grade retains 50 acre-feet or less in the aggregate of tailing, water, and process solution; or~~

(iii)(iv) ~~stores dry stack or filtered the portion of tailings used as underground backfill at an underground mine.~~

(35) "Underground mining" means all methods of mining other than surface mining.

(36) "Unit of surface-mined area" means that area of land and surface water included within an operating permit actually disturbed by surface mining during each 12-month period of time, beginning at the date of the issuance of the permit. The term includes the area from which overburden or minerals have been removed, the area covered by mining debris, and all additional areas

used in surface mining or underground mining operations that by virtue of mining use are susceptible to erosion in excess of the surrounding undisturbed portions of land.

(37) "Vegetative cover" means the type of vegetation, grass, shrubs, trees, or any other form of natural cover considered suitable at time of reclamation."

Section 2. Section 82-4-335, MCA, is amended to read:

"82-4-335. Operating permit -- limitation -- fees. (1) A person may not engage in mining, ore processing, or reprocessing of tailings or waste material, construct or operate a hard-rock mill, use cyanide ore-processing reagents or other metal leaching solvents or reagents, or disturb land in anticipation of those activities in the state without first obtaining a final operating permit from the department. Except as provided in 82-4-343, a separate final operating permit is required for each complex.

(2) A small miner who intends to use a cyanide ore-processing reagent or other metal leaching solvents or reagents shall obtain an operating permit for that part of the small miner's operation where the cyanide ore-processing reagent or other metal leaching solvents or reagents will be used or disposed of.

(3) (a) Prior to receiving an operating permit from the department, a person shall pay the basic permit fee of \$500. The department may require a person who is applying for a permit pursuant to subsection (1) to pay an additional fee not to exceed the actual amount of contractor and employee expenses beyond the normal operating expenses of the department whenever those expenses are reasonably necessary to provide for timely and adequate review of the application, including any environmental review conducted under Title 75, chapter 1, parts 1 and 2. The department may further define these expenses by rule. Whenever the department determines that an additional fee is necessary and the additional fee will exceed \$5,000, the department shall notify the applicant that a fee must be paid and submit to the applicant an itemized estimate of the proposed expenses. The department shall provide the applicant an opportunity to review the department's estimated expenses. The applicant may indicate which proposed expenses the applicant considers duplicative or excessive, if any.

(b) (i) Subject to subsection (3)(b)(ii), a contractor shall, at the request of the applicant, directly submit invoices of contractor expenses to the applicant.

(ii) A contractor's work is assigned, reviewed, accepted, or rejected by the department pursuant to this section.

(4) The person shall submit an application on a form provided by the department, which must contain the following information and any other pertinent data required by rule:

(a) the name and address of the operator, the engineer of record if applicable, and, if a corporation or other business entity, the name and address of its officers, directors, owners of 10% or more of any class of voting stock, partners, and the like and its resident agent for service of process, if required by law;

(b) the minerals expected to be mined;

(c) a proposed reclamation plan;

(d) the expected starting date of operations;

(e) a map showing the specific area to be mined and the boundaries of the land that will be disturbed, the topographic detail, the location and names of all streams, roads, railroads, and utility lines on or immediately adjacent to the area, and the location of proposed access roads to be built;

(f) the names and addresses of the owners of record and any purchasers under contracts for deed of the surface of the land within the permit area and the owners of record and any purchasers under contracts for deed of all surface

area within one-half mile of any part of the permit area, provided that the department is not required to verify this information;

(g) the names and addresses of the present owners of record and any purchasers under contracts for deed of all minerals in the land within the permit area, provided that the department is not required to verify this information;

(h) the source of the applicant's legal right to mine the mineral on the land affected by the permit, provided that the department is not required to verify this information;

(i) the types of access roads to be built and manner of reclamation of road sites on abandonment;

(j) a plan that will provide, within limits of normal operating procedures of the industry, for completion of the operation;

(k) ground water and surface water hydrologic data gathered from a sufficient number of sources and length of time to characterize the hydrologic regime;

(l) a plan detailing the design, operation, and monitoring of impounding structures, including but not limited to tailings impoundments and water reservoirs, sufficient to ensure that the structures are safe and stable. For a tailings storage facility, this requirement is met by submission of a design document pursuant to 82-4-376, a *panel written* report pursuant to 82-4-377, and a tailings operation, maintenance, and surveillance manual pursuant to 82-4-379 prior to issuance of a draft permit.

(m) a plan identifying methods to be used to monitor for the accidental discharge of objectionable materials and remedial action plans to be used to control and mitigate discharges to surface or ground water;

(n) an evaluation of the expected life of any tailings impoundment or waste area and the potential for expansion of the tailings impoundment or waste site. For a tailings storage facility, this requirement is met by submission of a design document pursuant to 82-4-376, a *panel written* report pursuant to 82-4-377, and a tailings operation, maintenance, and surveillance manual pursuant to 82-4-379 prior to issuance of a draft permit.

(o) an assessment of the potential for the postmining use of mine-related facilities for other industrial purposes, including evidence of consultation with the county commission of the county or counties where the mine or mine-related facilities will be located.

(5) Except as provided in subsection (7), the permit provided for in subsection (1) for a large-scale mineral development, as defined in 90-6-302, must be conditioned to provide that activities under the permit may not commence until the impact plan is approved under 90-6-307 and until the permittee has provided a written guarantee to the department and to the hard-rock mining impact board of compliance within the time schedule with the commitment made in the approved impact plan, as provided in 90-6-307. If the permittee does not comply with that commitment within the time scheduled, the department, upon receipt of written notice from the hard-rock mining impact board, shall suspend the permit until it receives written notice from the hard-rock mining impact board that the permittee is in compliance.

(6) When the department determines that a permittee has become or will become a large-scale mineral developer pursuant to 82-4-339 and 90-6-302 and provides notice as required under 82-4-339, within 6 months of receiving the notice, the permittee shall provide the department with proof that the permittee has obtained a waiver of the impact plan requirement from the hard-rock mining impact board or that the permittee has filed an impact plan with the hard-rock mining impact board and the appropriate county or counties. If the

permittee does not file the required proof or if the hard-rock mining impact board certifies to the department that the permittee has failed to comply with the hard-rock mining impact review and implementation requirements in Title 90, chapter 6, parts 3 and 4, the department shall suspend the permit until the permittee files the required proof or until the hard-rock mining impact board certifies that the permittee has complied with the hard-rock mining impact review and implementation requirements.

(7) Compliance with 90-6-307 is not required for exploration and bulk sampling for metallurgical testing when the aggregate samples are less than 10,000 tons.

(8) A person may not be issued an operating permit if:

(a) that person's failure, or the failure of any firm or business association of which that person was a principal or controlling member, to comply with the provisions of this part, the rules adopted under this part, or a permit or license issued under this part has resulted in either the receipt of bond proceeds by the department or the completion of reclamation by the person's surety or by the department, unless that person meets the conditions described in 82-4-360;

(b) that person has not paid a penalty for which the department has obtained a judgment pursuant to 82-4-361;

(c) that person has failed to post a reclamation bond required by 82-4-305; or

(d) that person has failed to comply with an abatement order issued pursuant to 82-4-362, unless the department has completed the abatement and the person has reimbursed the department for the cost of abatement.

(9) A person may not be issued a permit under this part unless, at the time of submission of a bond, the person provides the current information required in subsection (4)(a) and:

(a) (i) certifies that the person is not currently in violation in this state of any law, rule, or regulation of this state or of the United States pertaining to air quality, water quality, or mined land reclamation; or

(ii) presents a certification by the administering agency that the violation is in the process of being corrected to the agency's satisfaction or is the subject of a bona fide administrative or judicial appeal; and

(b) if the person is a partnership, corporation, or other business association, provides the certification required by subsection (9)(a)(i) or (9)(a)(ii), as applicable, for any partners, officers, directors, owners of 10% or more of any class of voting stock, and business association members."

Section 3. Section 82-4-337, MCA, is amended to read:

"82-4-337. Inspection—issuance of operating permit—modification, amendment, or revision. (1) (a) The department shall review all applications for operating permits for completeness and compliance with the requirements of this part and rules adopted pursuant to this part within:

(i) for rock products, 60 days of receipt of the initial application and within 20 days of receipt of responses to notices of deficiencies. If an applicant for a rock products operating permit responds to a notice of deficiency more than 1 year after its receipt, the department has 60 days to review the response to the notice of deficiency.

(ii) for all other applications not covered under subsection (1)(a)(i), 90 days of receipt of the initial application and within 30 days of receipt of responses to notices of deficiencies.

(b) The department's initial notice must note all deficiency issues, and the department may not in a later notice raise an issue pertaining to the initial application that was not raised in the initial notice. The department shall notify the applicant concerning completeness and compliance as soon as possible.

An application is considered complete and compliant unless the applicant is notified of deficiencies within the appropriate review period.

(c) The review for completeness and compliance is limited to areas in regard to which the department has statutory authority.

(d) When providing notice of deficiencies, the department shall identify each section in this part or rules adopted pursuant to this part related to the deficiency.

(e) When an application is complete and compliant, the department shall:

(i) declare in writing that the application is complete and compliant;

(ii) detail in writing the substantive requirements of this part and how the application complies with those requirements;

(iii) when an application submitted after October 1, 2015, includes a tailings storage facility, verify the receipt of the certified design document pursuant to 82-4-376, the ~~panel~~ *written* report pursuant to 82-4-377, and the tailings operation, maintenance, and surveillance manual pursuant to 82-4-379; and

(iv) issue a draft permit. The department may, as a condition of issuing the draft permit, require that the applicant obtain other permits required by law but not provided for in this part. However, the department may not withhold issuance of the draft permit in the absence of those permits.

(f) Prior to issuance of a draft permit, the department shall inspect the site. If the site is not accessible because of extended adverse weather conditions, the department shall inspect the site at the first available opportunity and may extend the time period prescribed in subsection (1)(a) by a term agreed to by the applicant.

(g) Issuance of the draft permit as a final permit is the proposed state action subject to review required by Title 75, chapter 1.

(h) If the applicant is not notified that there are deficiencies or inadequacies in the application or that the application is compliant within the time period required by subsection (1)(a), the final operating permit must be issued upon receipt of the bond as required in 82-4-338 and pursuant to the requirements of subsection (1)(i) of this section. The department shall promptly notify the applicant of the form and amount of bond that will be required. After the department notifies the applicant of deficiencies in the application within the time period required by subsection (1)(a), no further action by the department is required until the applicant has responded to the deficiency notification.

(i) Except as provided in subsection (1)(h), a final permit may not be issued until:

(i) sufficient bond has been submitted pursuant to 82-4-338;

(ii) the information and certification have been submitted pursuant to 82-4-335(9);

(iii) the department has found that permit issuance is not prohibited by 82-4-335(8) or 82-4-341(7);

(iv) the review pursuant to Title 75, chapter 1, is completed or 1 year has elapsed after the date the draft permit was issued, whichever is less. The applicant may by written waiver extend this time period.

(v) the department has made a determination that the application and the final permit meet the substantive requirements of this part and the rules adopted pursuant to this part.

(j) If the department decides to hire a third-party contractor to prepare an environmental impact statement on the application, the department shall prepare a list of no fewer than four contractors acceptable to the department and shall provide the applicant with a copy of the list. The applicant shall provide the department with a list of at least 50% of the contractors from

the department's list. The department shall select its contractor from the list provided by the applicant.

(2) (a) After issuance of a draft permit but prior to receiving a final permit, an applicant may propose modifications to the application. If the proposed modifications substantially change the proposed plan of operation or reclamation, the department may terminate the draft permit and review the application as modified pursuant to subsection (1) for completeness and compliance and issuance of a new draft permit.

(b) The department shall consult with the applicant before placing stipulations in a draft or final permit. Permit stipulations in a draft or final permit may, unless the applicant consents, address only compliance issues within the substantive requirements of this part or rules adopted pursuant to this part. For a stipulation imposed without the applicant's consent, the department shall provide to the applicant in writing the reason for the stipulation, a citation to the statute or rule that gives the department the authority to impose the stipulation, and, for a stipulation imposed in the final permit that was not contained in the draft permit, the reason that the stipulation was not contained in the draft permit.

(c) Within 40 days of the completion of the review required by Title 75, chapter 1, or 1 year from the date the draft permit is issued, whichever is less, the department shall issue its bond determination.

(d) When the department prepares an environmental review jointly with a federal agency acting under the National Environmental Policy Act, the applicant may by written waiver extend the 1-year deadline contained in subsection (1)(i)(iv).

(e) Upon submission of the bond and subject to subsection (1)(i), the department shall issue the final permit.

(3) The final operating permit must be granted for the period required to complete the operation and is valid until the operation authorized by the permit is completed or abandoned, unless the permit is suspended or revoked by the department as provided in this part.

(4) The final operating permit must provide that the reclamation plan may be modified by the department, upon proper application of the permittee or after timely notice and opportunity for hearing, at any time during the term of the permit and for any of the following reasons:

(a) to modify the requirements so that they will not conflict with existing laws;

(b) when the previously adopted reclamation plan is impossible or impracticable to implement and maintain;

(c) when significant environmental problem situations not permitted under the terms of regulatory permits held by the permittee are revealed by field inspection and the department has the authority to address them under the provisions of this part.

(5) (a) The modification of a final operating permit may be a major or minor permit amendment or a permit revision. A modification of the operating permit, including a modification necessary to comply with the requirements of existing law as interpreted by a court of competent jurisdiction must be processed in accordance with the procedures for an application for a permit amendment or revision that are established pursuant to 82-4-342 and this section.

(b) The modification of an operating permit may not be finalized and an existing bond amount may not be increased until the permit modification procedures and analysis described in subsection (5)(a) are completed."

Section 4. Section 82-4-377, MCA, is amended to read:

"82-4-377. Independent review panel -- selection -- duties. ~~(1) An independent review panel shall review the design document required by 82-4-376.~~

~~(2)(1)~~ (a) The operator or permit applicant shall ~~select~~ *identify at least three independent review engineers panel members* to serve on the *independent review* panel and shall submit those names to the department. The department may reject any proposed ~~panelists~~ *panel members*. If the department rejects a proposed ~~panelist~~ *panel member*, the operator or permit applicant shall continue to select independent review ~~engineers as panelists~~ *panel members* until *at least three panelists panel members* are approved by the department.

~~(b) The independent review panel shall consist of a majority of licensed engineers as described in 82-4-303(13)(a).~~

~~(c) An independent review panel member, as defined 82-4-303, may not be held individually liable for any act or omission made in the course and scope of their capacity as a department-approved panel member on an independent review panel pursuant to this part.~~

~~(3)(2)~~ An independent review ~~engineer~~ *panel member* may not be an employee of:

(a) an operator or permit applicant; or

(b) the design consultant, the engineer of record, or the constructor.

~~(4)(3)~~ The operator or permit applicant shall contract with panel members, process invoices, and pay costs.

~~(5)(4)~~ A representative of the department and a representative of the operator or permit applicant may participate on the panel, but they are not members of the panel and their participation is nonbinding on the review of the design document.

~~(6)(5)~~ The engineer of record is not a member of the panel but shall participate in the panel review of the design document.

~~(7)(6)~~ The operator or permit applicant shall provide each panel member with a ~~hard copy and an electronic copy~~ of the design document and other information requested by the panel ~~members~~.

~~(8)(7)~~ The panel ~~members~~ shall review the design document *required pursuant to 82-4-376*, underlying analysis, and assumptions for consistency with this part. The panel ~~members~~ shall assess the practicable application of current technology in the proposed design.

~~(9)(8) The panel shall submit its review and any recommended modifications to the operator or permit applicant and the department. Following the review of the design document, the panel members shall prepare a written report signed by each panel member that summarizes the review. The written report may include recommended modifications to the design document for consistency with this part. The panel members shall provide the written report to the operator or permit applicant and the department. The panel's panel members' determination is conclusive. The report must be signed by each panel member.~~

~~(10)(9)~~ (a) *If the written report does not contain any recommended modification to a design document, the engineer of record shall certify the completed design document. The operator or permit applicant shall submit the final design document to the department pursuant to 82-4-376.*

(b) *If a written report contains recommended modifications to the design document, the engineer of record shall modify the design document to address the recommendations of the panel and shall certify the completed design document recommended modifications and shall submit the revised designed document to the panel members for review. Following written concurrence from the panel members that the revised design document adequately addresses the recommended modifications stated in the written report, the engineer of record*

shall certify the completed design document. The operator or permit applicant shall submit the final design document to the department pursuant to 82-4-376. The panel members' determination is conclusive.

~~(11)~~(10) For an expansion of a tailings storage facility for which the original design document was approved by the department, the operator shall make a reasonable effort to retain the previous panel members. To replace a panel member, the process in subsection ~~(2)~~ (1) must be followed."

Section 5. Section 82-4-380, MCA, is amended to read:

"82-4-380. Periodic review required. (1) ~~At least once every 5 years following~~ *Following* department approval of a design document pursuant to 82-4-376 during mining, or as required in a reclamation plan approved pursuant to 82-4-336, the operator shall assemble a panel in accordance with the panel requirements in 82-4-377. A reasonable effort must be made to retain previous panel members. *The operator shall assemble the panel at a frequency to be determined by the panel, except that the panel shall assemble:*

(a) 6 months prior to the anticipated start of initial construction of the new tailing storage facility and not less than annually afterwards until construction is completed or the placement of tailings in the facility is initiated; and

(b) at least once every 5 years after initial construction and until completion of the tailings deposition.

(2) The panel shall:

(a) inspect the tailings storage facility *after the initiation of construction;*

(b) review the tailings operation, maintenance, and surveillance manual and records collected in association with the manual;

(c) interview people with responsibilities identified in the tailings operation, maintenance, and surveillance manual; and

(d) review annual engineer of record inspection reports, corrective action plans, records associated with construction, and any other aspect, plan, record, document, design, model, or report related to the tailings storage facility that the panel needs to review to ensure that the tailings storage facility is constructed, operated, and maintained as designed and is functioning, can be closed as intended, and meets acceptable engineering standards.

(3) The operator shall provide documents and records necessary for the panel to complete a periodic review.

(4) The panel shall prepare a report detailing the scope of review and include any recommendations resulting from the review.

(5) The panel shall immediately notify the department and the operator if there is an imminent threat to human health or the environment.

(6) The final review report must be signed by each panel member and provided to the department and the operator.

(7) The operator shall prepare a corrective action plan and schedule effectively implementing the recommendations included in the panel's report. The operator shall submit the corrective action plan and schedule to the panel within 60 days after receipt of the panel report.

(8) The panel shall review the corrective action plan and schedule to determine whether the corrective action plan and schedule proposed by the operator will effectively implement the recommendations included in the panel's report.

(9) Within 30 days after receipt of approval from the panel, the operator shall submit the corrective action plan with an implementation schedule to the department.

(10) Failure to implement the corrective action plan pursuant to the implementation schedule is subject to the provisions of 82-4-361 and 82-4-362."

Section 6. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 505

[HB 703]

AN ACT EXEMPTING CERTAIN AGENCIES AND DEPARTMENTS FROM AN ANALYSIS OF GREENHOUSE GAS EMISSIONS FROM APPLIANCES, VEHICLES, AND ENGINES; AND PROVIDING RULEMAKING AUTHORITY.

WHEREAS, the purpose of the Montana Environmental Policy Act (MEPA) is to ensure that environmental attributes are fully considered by the Legislature in enacting laws to fulfill constitutional obligations and that the public is informed of the anticipated impacts in Montana of potential state actions; and

WHEREAS, the U.S. Congress has enacted the Clean Air Act and other standards to establish national regulations over greenhouse gas emissions and other energy related matters; and

WHEREAS, the federal Energy Policy and Conservation Act preempts state regulation of gas usage related to covered appliances, as recently referenced in *California Restaurant Association v. City of Berkeley*, 89 F.4th 1094 (9th Cir. 2024); and

WHEREAS, the federal Clean Air Act preempts regulation of mobile sources by states under 42 U.S.C. 7543 and 42 U.S.C. 7507; and

WHEREAS, the federal Clean Air Act preempts state regulation of out-of-state greenhouse gases, as recently referenced in *City of New York v. Chevron Corp.*, 993 F.3d 81 (2d Cir. 2021).

THEREFORE, because the Legislature has no authority to enact laws related to these subjects and a state cannot act contrary to these federal statutes, the purposes of MEPA cannot be fulfilled by analyzing greenhouse gas emissions from these sources. Thus, it is appropriate to exclude these sources from MEPA review.

Be it enacted by the Legislature of the State of Montana:

Section 1. Exemption from environmental review. The department and local building departments are exempt from the provisions of Title 75, chapter 1, parts 1 and 2, for an analysis of greenhouse gases from a covered product or appliance, as defined by 42 U.S.C. 6292, for the adoption or enforcement of the state building code or county, city, and town building codes.

Section 2. Exemptions from environmental review. The department is not required to perform an analysis of greenhouse gas emissions beyond the state's borders under the provisions of Title 75, chapters 1, parts 1 and 2, from any source not subject to state enforcement pursuant to 42 U.S.C. 7543(a) for a new motor vehicle or a new motor vehicle engine and pursuant to 42 U.S.C. 7543(e)(1) for a new nonroad engine or nonroad vehicle.

Section 3. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 50, chapter 60, part 1, and the provisions of Title 50, chapter 60, part 1, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 75, chapter 2, part 1, and the provisions of Title 75, chapter 2, part 1, apply to [section 2].

Approved May 8, 2025

CHAPTER NO. 506

[HB 707]

AN ACT PROVIDING THAT THE DEPARTMENT OF CORRECTIONS SHALL CONSIDER AN INMATE'S FAMILY ATTACHMENTS WHEN MAKING OUT-OF-STATE PLACEMENTS; AND AMENDING SECTION 53-30-106, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Consideration of attachment to family. When an inmate in a state prison is placed in or transferred to a correctional institution located outside of the state, the department shall consider the inmate's attachment to family and the inmate's ability to maintain those attachments.

Section 2. Section 53-30-106, MCA, is amended to read:

"53-30-106. Excessive inmate population – confinement of inmates in other institutions. (1) If the inmate population of a correctional institution or system exceeds the emergency capacity for 30 consecutive days, the director of the department of corrections may declare that the emergency capacity has been exceeded and temporarily stop admissions to the institution or system. The director shall notify each sheriff and district court that new inmates will not be accepted by the department for admission into the institution or system until the inmate population is reduced to 95% or less of the emergency capacity. Persons committed to the department and persons sought to be admitted remain in the department's legal custody but must be kept in a detention center in the jurisdiction holding them. In the event the jurisdiction holding the inmate is at maximum capacity, the inmate may be placed in an available detention center in another jurisdiction. The department shall reimburse that jurisdiction for the cost of detention for the period beyond the normal time of delivery to a correctional institution administered by the department. Reimbursement must be at a rate mutually agreeable to the department and the jurisdiction holding the person. The rate must cover the reasonable costs of the holding jurisdiction. Expenses for medication, medical services, or hospitalization for persons confined in a detention center under this section must be paid by the department.

(2) The department may enter into contracts with the federal government, other states, or the commissioners of counties that have suitable detention centers for confining inmates committed to a correctional institution or system administered by the department, either because a correctional institution or system has exceeded its emergency capacity or because the department has no institution that is adequate for certain inmates.

(3) Within budgetary limits *and in compliance with [section 1]*, the department may also enter into contracts with public or private corporations for the confinement of selected inmates if suitable programs have been established."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 53, chapter 30, part 1, and the provisions of Title 53, chapter 30, part 1, apply to [section 1].

Approved May 8, 2025

CHAPTER NO. 507

[HB 708]

AN ACT ALLOWING ALL PERSONS SERVING IN A RESERVE COMPONENT TO BE ELIGIBLE FOR CERTAIN COMMERCIAL DRIVER'S LICENSE WAIVERS; AND AMENDING SECTION 61-5-123, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-5-123, MCA, is amended to read:

“61-5-123. Waiver of skills test or knowledge test related to military commercial motor vehicles experience – definition. (1) As used in this section, “current or former military service member” means a person:

- (a) honorably discharged from the armed forces of the United States;
- (b) currently serving in the armed forces of the United States;
- (c) serving **full-time** in a reserve component, as defined in 37-1-138; or
- (d) honorably discharged from the reserve component after serving **full-time** in the reserve component.

(2) The department may waive the skills test, knowledge test, or both, required for a commercial driver's license if an applicant is a current or former military service member and meets the conditions in subsection (3), (4), or (5).

(3) A current or former military service member applying for waiver of the skills test shall:

(a) certify and provide evidence that the member:

(i) is or was regularly employed within the last year in a military position requiring operation of a commercial motor vehicle;

(ii) was exempted from the commercial driver's license requirements in 61-8-803; and

(iii) was operating, for at least 2 years immediately preceding separation from the military, a vehicle representative of the commercial motor vehicle type the driver applicant operates or expects to operate; and

(b) certify that during the 2-year period immediately prior to applying for a commercial driver's license, the member:

(i) has not simultaneously held more than one civilian license;

(ii) has not had any license suspended, revoked, or cancelled;

(iii) has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in 61-8-802;

(iv) has not had any convictions for a violation of federal, military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident; and

(v) has no record of an accident in which the current or former military service member was at fault.

(4) A current or former military service member applying for waiver of the knowledge test shall certify and provide evidence that during the 1-year period immediately prior to the application, the member:

(a) is or was regularly employed and designated as a:

(i) motor transport operator--88M (Army);

(ii) PATRIOT launching station operator--14T (Army);

(iii) fueler--92F (Army);

(iv) vehicle operator--2T1 (Air Force);

(v) fueler--2F0 (Air Force);

(vi) pavement and construction equipment operator--3E2 (Air Force);

(vii) motor vehicle operator--3531 (Marine Corps); or

(viii) equipment operator--E.O. (Navy);

(b) is operating a vehicle representative of the commercial motor vehicle type the driver applicant expects to operate on separation from the military or operated a similar vehicle type immediately preceding separation from the military;

(c) has not simultaneously held more than one civilian license;

(d) has not had any license suspended, revoked, or cancelled;

(e) has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in 61-8-802;

(f) has not had more than one conviction for any type of motor vehicle for serious traffic violations contained in 61-8-803;

(g) has not had any convictions for a violation of federal, military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident; and

(h) has no record of an accident in which the current or former military service member was at fault.

(5) A current or former military service member applying for waiver of the applicable skills and knowledge tests for a passenger, tank vehicle, or hazardous materials endorsement shall certify and provide evidence that during the 1-year period immediately prior to the application, the member:

(a) is or was regularly employed in a military position requiring:

(i) operation of a passenger commercial motor vehicle if requesting waiver of the skills and knowledge test for a passenger endorsement;

(ii) operation of a tank vehicle if requesting waiver of the skills and knowledge test for a tank vehicle endorsement; or

(iii) transportation of hazardous materials if requesting waiver of the skills and knowledge test for a hazardous materials endorsement;

(b) has not simultaneously held more than one civilian license;

(c) has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in 61-8-802;

(d) has not had more than one conviction for any type of motor vehicle for serious traffic violations contained in 61-8-803;

(e) has not had any convictions for a violation of federal, military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident; and

(f) has no record of an accident in which the current or former military service member was at fault.”

Approved May 8, 2025

CHAPTER NO. 508

[HB 711]

AN ACT PROHIBITING THE SUPREME COURT FROM SELECTING CERTAIN INDIVIDUALS AS THE PRESIDING OFFICER OF THE DISTRICTING AND APPORTIONMENT COMMISSION; AND AMENDING SECTION 5-1-102, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-1-102, MCA, is amended to read:

“5-1-102. Composition of commission. (1) The majority and minority leaders of each house shall each designate one commissioner for the commission provided for in 5-1-101. Within 20 days after their designation, the four commissioners shall select the fifth member, who shall serve as the presiding officer of the commission.

(2) If the four members fail to select the fifth member within the time prescribed, a majority of the supreme court shall select the fifth member. *The supreme court may not select a fifth member who has made a campaign contribution in the past 10 years to a major party candidate for state or federal office.*

Approved May 11, 2025

CHAPTER NO. 509

[HB 712]

AN ACT GENERALLY REVISING RESTITUTION LAWS; REQUIRING A PERSON CONVICTED OF THE OFFENSE OF VEHICULAR HOMICIDE WHILE UNDER THE INFLUENCE TO PAY RESTITUTION FOR THE SUPPORT OF EACH MINOR CHILD WHOSE PARENT OR GUARDIAN WAS THE VICTIM OF THE OFFENSE; PROVIDING EXCEPTIONS; AND AMENDING SECTIONS 45-5-106, 46-18-201, AND 46-18-241, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Restitution for child of victim – vehicular homicide while under influence – definition. (1) (a) A person convicted of the offense of vehicular homicide while under the influence as defined in 45-5-106 shall pay restitution for the support of each minor child whose parent or guardian was the victim of the offense.

(b) The court shall order the support to be paid monthly until the child reaches 18 years of age or graduates from high school, whichever is later.

(c) A person may not be required to pay restitution under this section to an individual who is 19 years of age or older.

(2) The court shall determine the manner in which the restitution is to be paid. In determining an amount of restitution that is reasonable and necessary to support the child, the court shall consider all relevant factors, including:

(a) the financial needs and resources of the child;

(b) the financial needs and resources of the surviving parent or guardian, if any, or other current guardian of the child or, if applicable, the financial resources of the department of public health and human services if the child is in legal custody of the state pursuant to a proceeding under Title 41, chapter 3;

(c) the standard of living to which the child is accustomed;

(d) the physical and emotional condition of the child and the child's educational needs;

(e) the child's physical and legal custody arrangements;

(f) the reasonable work-related child-care expenses of the surviving parent or guardian or other current guardian, if applicable; and

(g) the financial resources of the defendant.

(3) If a defendant is ordered to pay restitution under this section and is incarcerated and unable to make the required restitution payments, the defendant shall begin payments no later than the first anniversary of the date of the defendant's release from confinement, including entering into a payment plan to address any arrearage. If the defendant's payments are set to terminate but the defendant's obligation is not paid in full, the restitution payments shall continue until the entire arrearage is paid.

(4) (a) If prior to an order by the sentencing court for the defendant to pay restitution under this section, the surviving parent or guardian of the child brings a civil action against the defendant and obtains a judgment in the civil suit, no payments may be ordered under this section.

(b) If the court orders the defendant to pay restitution under this section and the surviving parent or guardian subsequently brings a civil action and obtains a judgment, the order for payment of restitution under this section must be offset by the amount of the judgment awarded in the civil action.

(5) For the purposes of this section, "victim" means a person who suffered death as a result of vehicular homicide while under the influence as defined in 45-5-106.

Section 2. Section 45-5-106, MCA, is amended to read:

"45-5-106. Vehicular homicide while under influence. (1) A person commits the offense of vehicular homicide while under the influence if the person negligently causes the death of another human being while the person is operating a vehicle in violation of 61-8-1002.

(2) Vehicular homicide while under the influence is not an included offense of deliberate homicide as described in 45-5-102(1)(b).

(3) A person convicted of vehicular homicide while under the influence shall be imprisoned in a state prison for a term not to exceed 30 years or be fined an amount not to exceed \$50,000, or both. Imposition of a sentence may not be deferred.

(4) If the victim has a surviving minor child, a person convicted of vehicular homicide while under the influence must be ordered to pay restitution pursuant to [section 1]."

Section 3. Section 46-18-201, MCA, is amended to read:

"46-18-201. Sentences that may be imposed. (1) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may defer imposition of sentence, except as otherwise specifically provided by statute, for a period:

(i) not exceeding 1 year for a misdemeanor or for a period not exceeding 3 years for a felony; or

(ii) not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony if a financial obligation is imposed as a condition of sentence for either the misdemeanor or the felony, regardless of whether any other conditions are imposed.

(b) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of an offender who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

(2) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may suspend execution of sentence, except as provided in subsection (2)(b) or as otherwise specifically provided by statute, for a period up to the maximum sentence allowed or for a period of 6 months, whichever is greater, for each particular offense.

(b) (i) Except as provided in subsections (2)(b)(ii) and (2)(b)(iii), a sentencing judge may not suspend execution of sentence, including when imposing a sentence under subsection (3)(a)(vii), in a manner that would result in an offender being supervised in the community as a probationer by the department of corrections for a period of time longer than:

(A) 20 years for a sexual offender, as defined in 46-23-502;

(B) 20 years for an offender convicted of deliberate homicide, as defined in 45-5-102, or mitigated homicide, as defined in 45-5-103;

(C) 15 years for a violent offender, as defined in 46-23-502, an offender convicted of negligent homicide, as defined in 45-5-104, vehicular homicide while under the influence, as defined in 45-5-106, or criminal distribution of dangerous drugs that results in the death of an individual from use of the dangerous drug, as provided in 45-9-101(5);

(D) 10 years for an offender convicted of 45-9-101, 45-9-103, 45-9-107, 45-9-109, 45-9-110, 45-9-125, 45-9-127, or 45-9-132; or

(E) 5 years for all other felony offenses.

(ii) The provisions of subsections (2)(b)(i)(A) and (2)(b)(i)(B) do not apply if the sentencing judge finds that a longer term of supervision is needed for the protection of society or the victim. The sentencing judge shall state as part of the sentence and the judgment the reasons a longer suspended sentence is needed to protect society or the victim.

(iii) The provisions of subsections (2)(b)(i)(A) and (2)(b)(i)(B) do not apply to violations of 45-6-301 if the amount of restitution ordered exceeds \$50,000.

(3) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may impose a sentence that may include:

(i) a fine as provided by law for the offense;

(ii) payment of costs, as provided in 46-18-232, or payment of costs of assigned counsel as provided in 46-8-113;

(iii) a term of incarceration, as provided in Title 45 for the offense, at a county detention center or at a state prison to be designated by the department of corrections;

(iv) commitment of:

(A) an offender not referred to in subsection (3)(a)(iv)(B) to the department of corrections with a recommendation for placement in an appropriate correctional facility or program; however, all but the first 5 years of the commitment to the department of corrections must be suspended, except as provided in 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-625(4), and 45-5-711; or

(B) a youth transferred to district court under 41-5-206 and found guilty in the district court of an offense enumerated in 41-5-206 to the department of corrections for a period determined by the court for placement in an appropriate correctional facility or program;

(v) chemical treatment of sexual offenders, as provided in 45-5-512, if applicable, that is paid for by and for a period of time determined by the department of corrections, but not exceeding the period of state supervision of the person;

(vi) commitment of an offender to the department of corrections with the requirement that immediately subsequent to sentencing or disposition the offender is released to community supervision and that any subsequent violation must be addressed as provided in 46-23-1011 through 46-23-1015; or

(vii) any combination of subsection (2) and this subsection (3)(a).

(b) A court may permit a part or all of a fine to be satisfied by a donation of food to a food bank program.

(4) When deferring imposition of sentence or suspending all or a portion of execution of sentence, the sentencing judge may impose on the offender any reasonable restrictions or conditions during the period of the deferred imposition or suspension of sentence. Reasonable restrictions or conditions imposed under subsection (1)(a) or (2) may include but are not limited to:

(a) limited release during employment hours as provided in 46-18-701;

(b) incarceration in a detention center not exceeding 180 days;

(c) conditions for probation;

(d) payment of the costs of confinement;

(e) payment of a fine and accrued interest as provided in 46-18-231;

(f) payment of costs as provided in 46-18-232 and 46-18-233;

(g) payment of costs of assigned counsel as provided in 46-8-113;

(h) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321;

(i) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available and that the offender is a suitable candidate, an order that the offender be placed in a chemical dependency treatment program, prerelease center, or prerelease program for a period not to exceed 1 year;

(j) community service;

(k) home arrest as provided in Title 46, chapter 18, part 10;

(l) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

(m) participation in a day reporting program provided for in 53-1-203;

(n) participation in the 24/7 sobriety and drug monitoring program provided for in Title 44, chapter 4, part 12, for a violation of aggravated driving under the influence as defined in 61-8-1001, a violation of 61-8-1002, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime or for a violation of any statute involving domestic abuse or the abuse or neglect of a minor if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime regardless of whether the charge or conviction was for a first, second, or subsequent violation of the statute;

(o) participation in a restorative justice program approved by court order and payment of a participation fee of up to \$150 for program expenses if the program agrees to accept the offender;

(p) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of the victim or society;

(q) with approval of the program and confirmation by the department of corrections that space is available, an order that the offender be placed in a residential treatment program; or

(r) any combination of the restrictions or conditions listed in this subsection (4).

(5) In addition to any other penalties imposed, if a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere and the sentencing judge finds that a victim, as defined in 46-18-243, has sustained a pecuniary loss; *or the provisions of [section 1] apply*, the sentencing judge shall, as part of the sentence, require payment of full restitution and interest to the victim, as provided in 46-18-241 through 46-18-249, whether or not any part of the sentence is deferred or suspended.

(6) (a) Except as provided in subsection (6)(b), in addition to any of the penalties, restrictions, or conditions imposed pursuant to subsections (1) through (5), the sentencing judge may include the suspension of the license or driving privilege of the person to be imposed upon the failure to comply with any penalty, restriction, or condition of the sentence. A suspension of the license or driving privilege of the person must be accomplished as provided in 61-5-214 through 61-5-217.

(b) A person's license or driving privilege may not be suspended due to nonpayment of fines, costs, or restitution.

(7) In imposing a sentence on an offender convicted of a sexual or violent offense, as defined in 46-23-502, the sentencing judge may not waive the registration requirement provided in Title 46, chapter 23, part 5.

(8) If a felony sentence includes probation, the department of corrections shall supervise the offender unless the court specifies otherwise.

(9) When imposing a sentence under this section that includes incarceration in a detention facility or the state prison, as defined in 53-30-101, the court shall provide credit for time served by the offender before trial or sentencing.

(10) As used in this section, “dangerous drug” has the meaning provided in 50-32-101.”

Section 4. Section 46-18-241, MCA, is amended to read:

“46-18-241. (Temporary) Condition of restitution – interest. (1) As provided in 46-18-201 *and [section 1]*, a sentencing court shall, as part of the sentence, require an offender to make full restitution to any victim who has sustained pecuniary loss, including a person suffering an economic loss. Full restitution includes the interest required by subsection (4). The duty to pay full restitution under the sentence remains with the offender or the offender’s estate until full restitution is paid, whether or not the offender is under state supervision. If the offender is under state supervision, payment of restitution is a condition of any probation or parole.

(2) (a) The offender shall pay the cost of supervising the payment of restitution, as provided in 46-18-245, by paying an amount equal to 10% of the amount of restitution ordered, but not less than \$5.

(b) A felony offender shall pay the restitution and cost of supervising the payment of restitution to the department of corrections until the offender has fully paid the restitution and the cost of supervising the payment of restitution. The department shall pay the restitution to the person or entity to whom the court ordered restitution to be paid, except that if a victim has been compensated under Title 53, chapter 9, part 1, the restitution must be paid to the crime victims compensation and assistance program in the department of justice for deposit in the account provided for in 53-9-113. The department may contract with a government agency or private entity for the collection of the payments for restitution and the cost of collecting the payments for restitution during the period following state supervision or state custody of the offender. The department shall adopt rules to implement this subsection (2)(b).

(c) In a misdemeanor case, payment of restitution and of the cost of supervising the payment of restitution must be made to the court until the offender has fully paid the restitution and the cost of supervising the payment of restitution. The court shall disburse the money to the entity employing the person ordered to supervise restitution under 46-18-245, which shall disburse the restitution to the person or entity to whom the court ordered restitution to be paid, except that if a victim has been compensated under Title 53, chapter 9, part 1, the restitution must be paid to the crime victims compensation and assistance program in the department of justice for deposit in the account provided for in 53-9-113.

(3) If at any time the court finds that, because of circumstances beyond the offender’s control, the offender is not able to pay any restitution, the court may order the offender to perform community service during the time that the offender is unable to pay. The offender must be given a credit against restitution due at the rate of the hours of community service times the state minimum wage in effect at the time that the community service is performed.

(4) If an offender is out of compliance with court-mandated payments for 6 months or more, interest must accrue on restitution ordered under this section at a rate of 3%. The interest may not compound. Interest only begins to accrue when the judgment is placed for collection with a private person or entity as provided in 3-10-601, 25-30-102, or 46-17-303. (Terminates June 30, 2027--secs. 1, 2, 3, Ch. 139, L. 2021.)

46-18-241. (Effective July 1, 2027) Condition of restitution – interest. (1) As provided in 46-18-201 *and [section 1]*, a sentencing court shall, as part of the sentence, require an offender to make full restitution to any victim who has sustained a pecuniary loss, including a person suffering an economic loss. Full restitution includes the interest required by subsection (4).

The duty to pay full restitution under the sentence remains with the offender or the offender's estate until full restitution is paid, whether or not the offender is under state supervision. If the offender is under state supervision, payment of restitution is a condition of any probation or parole.

(2) (a) The offender shall pay the cost of supervising the payment of restitution, as provided in 46-18-245, by paying an amount equal to 10% of the amount of restitution ordered, but not less than \$5.

(b) A felony offender shall pay the restitution and cost of supervising the payment of restitution to the department of corrections until the offender has fully paid the restitution and the cost of supervising the payment of restitution. The department shall pay the restitution to the person or entity to whom the court ordered restitution to be paid. The department may contract with a government agency or private entity for the collection of the payments for restitution and the cost of collecting the payments for restitution during the period following state supervision or state custody of the offender. The department shall adopt rules to implement this subsection (2)(b).

(c) In a misdemeanor case, payment of restitution and of the cost of supervising the payment of restitution must be made to the court until the offender has fully paid the restitution and the cost of supervising the payment of restitution. The court shall disburse the money to the entity employing the person ordered to supervise restitution under 46-18-245, which shall disburse the restitution to the person or entity to whom the court ordered restitution to be paid.

(3) If at any time the court finds that, because of circumstances beyond the offender's control, the offender is not able to pay any restitution, the court may order the offender to perform community service during the time that the offender is unable to pay. The offender must be given a credit against restitution due at the rate of the hours of community service times the state minimum wage in effect at the time that the community service is performed.

(4) If an offender is out of compliance with court-mandated payments for 6 months or more, interest must accrue on restitution ordered under this section at a rate of 3%. The interest may not compound. Interest only begins to accrue when the judgment is placed for collection with a private person or entity as provided in 3-10-601, 25-30-102, or 46-17-303."

Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 46, chapter 18, part 2, and the provisions of Title 46, chapter 18, part 2, apply to [section 1].

Approved May 8, 2025

CHAPTER NO. 510

[HB 713]

AN ACT REVISING MUNICIPAL ZONING LAWS; PROVIDING FOR METHODSTO ESTABLISH, AMEND, OR REPEAL CERTAIN REGULATIONS, RESTRICTIONS, OR BOUNDARIES; REPEALING A METHOD OF PROTEST FOR ALTERING ZONING REGULATIONS; AMENDING SECTION 76-2-303, MCA; AND REPEALING SECTION 76-2-305, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-2-303, MCA, is amended to read:

"76-2-303. Procedure to administer certain annexations and zoning laws -- hearing and notice. (1) (a) *A regulation, restriction, or boundary may be determined, established, enforced, amended, supplemented, changed, modified, or repealed in conformance with this section.*

(b) The city or town council or other legislative body of a municipality shall provide for the manner in which regulations and restrictions and the boundaries of districts are determined, established, enforced, ~~and amended, supplemented,~~ changed, *modified, or repealed* subject to the requirements of subsection (2).

(2) (a) ~~▲ The determination, establishment, enforcement, amendment, supplement, change, modification, or repeal of a regulation, restriction, or boundary may not become effective until after a public hearing in relation to the regulation, restriction, or boundary at which parties in interest and citizens have an opportunity to be heard has been held. At least 15 days' notice of the time and place of the hearing must be published in an official paper or a paper of general circulation in the municipality.~~

(b) If a zone map boundary only is proposed to be amended, supplemented, changed, modified, or repealed, the city or town council or other legislative body of the municipality shall adopt the boundary change by resolution. The adoption of the boundary change by resolution is effective immediately.

(3) (a) For municipal annexations, a municipality may conduct a hearing on the annexation in conjunction with a hearing on the zoning of the proposed annexation if the proposed municipal zoning regulations for the annexed property:

(i) authorize land uses comparable to the land uses authorized by county zoning;

(ii) authorize land uses that are consistent with land uses approved by the board of county commissioners or the board of adjustment pursuant to Title 76, chapter 2, part 1 or 2; or

(iii) are consistent with zoning requirements recommended in a growth policy adopted pursuant to Title 76, chapter 1, for the annexed property.

(b) A joint hearing authorized under this subsection (3) fulfills a municipality's obligation regarding zoning notice and public hearing for a proposed annexation."

Section 2. Repealer. The following section of the Montana Code Annotated is repealed:

76-2-305. Alteration of zoning regulations -- protest.

Approved May 8, 2025

CHAPTER NO. 511

[HB 714]

AN ACT REVISING LAWS RELATED TO THE DIVISIONS OF LAND THAT ARE EXEMPT FROM SUBDIVISION REVIEW; REQUIRING A GOVERNING BODY TO REVIEW CERTAIN DIVISIONS AND AGGREGATIONS OF LAND; REQUIRING A GOVERNING BODY TO USE AN AFFIDAVIT FORM PROVIDED BY THE ATTORNEY GENERAL WHEN DETERMINING WHETHER AN APPLICANT INTENDS TO EVADE THE REQUIREMENTS; INCREASING A FINE; PROVIDING DEFINITIONS; AMENDING SECTION 76-3-207, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-3-207, MCA, is amended to read:

"76-3-207. Divisions or aggregations of land exempted from review but subject to survey requirements and zoning regulations – exceptions – fees for examination of division – definitions. (1) Except as provided in subsection (2), unless the method of disposition is adopted for the purpose of evading this chapter, the following divisions or aggregations of

tracts of record of any size, regardless of the resulting size of any lot created by the division or aggregation, are not subdivisions under this chapter but are subject to the surveying requirements of 76-3-401 for divisions or aggregations of land other than subdivisions and are subject to applicable zoning regulations adopted under Title 76, chapter 2:

(a) divisions made outside of platted subdivisions for the purpose of relocating common boundary lines between adjoining properties;

(b) divisions made outside of platted subdivisions for the purpose of a single gift or sale in each county to each member of the landowner's immediate family;

(c) divisions made outside of platted subdivisions by gift, sale, or agreement to buy and sell in which the landowner enters into a covenant for the purposes of this chapter with the governing body that runs with the land and provides that the divided land will be used exclusively for agricultural purposes, subject to the provisions of 76-3-211;

(d) for five or fewer lots within a platted subdivision, the relocation of common boundaries;

(e) divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

(f) aggregation of parcels or lots when a certificate of survey or subdivision plat shows that the boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel are established. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

(2) Notwithstanding the provisions of subsection (1):

(a) within a platted subdivision filed with the county clerk and recorder, a division, redesign, or rearrangement of lots that results in an increase in the number of lots or that redesigns or rearranges six or more lots must be reviewed and approved by the governing body before an amended plat may be filed with the county clerk and recorder;

(b) (i) a division within a platted subdivision is exempt from additional subdivision reviews and is subject to applicable zoning regulations adopted under Title 76, chapter 2, unless the method of disposition is adopted for the purpose of evading this chapter, if the division:

(A) is within a subdivision that has been approved by a local governing body;

(B) creates ~~parcels~~ *lots* of a size allowed within the subdivision, *whether imposed by the governing body or through a private covenant*; and

(C) is gifted or sold to a member of the landowner's immediate family;

(ii) ~~an~~ *an* amended plat must be filed with the county clerk and recorder after a division provided in subsection (2)(b)(i) occurs, *and must comply with all standards established pursuant to 76-3-411*; and

(iii) except as otherwise provided in this subsection (2)(b), a restriction or requirement on the platted subdivision continues to apply to a division allowed in subsection (2)(b)(i), *whether imposed by the governing body or through a private covenant*;

(c) a division of land exempted under subsection (1)(b) that is also located in a zoning district is allowed if each family transfer parcel created by the division *and any remaining parcel is* ~~are~~ at least 5 acres, unless the zoning district allows for smaller lot sizes; and

(d) a division of land transferred to an immediate family member pursuant to subsection (1)(b) ~~or (1)(c) or (2)(b)~~ may be transferred regardless of age and

may be owned jointly with that immediate family member's spouse, *but a transfer to a minor must comply with Title 72, chapter 26, part 6.*

(3) (a) Subject to subsection (3)(b), a division of land may not be made under this section unless the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid.

(b) (i) If a division of land includes centrally assessed property and the property taxes applicable to the division of land are not specifically identified in the tax assessment, the department of revenue shall prorate the taxes applicable to the land being divided on a reasonable basis. The owner of the centrally assessed property shall ensure that the prorated real property taxes and special assessments are paid on the land being sold before the division of land is made.

(ii) The county treasurer may accept the amount of the tax prorated pursuant to this subsection (3)(b) as a partial payment of the total tax that is due.

(4) The governing body:

(a) ~~may~~ *shall* examine a division or aggregation of land to determine whether or not the requirements of this chapter apply to the division or aggregation;

(b) may establish reasonable fees, not to exceed \$400, for the examination;

~~(c)~~ (c) shall complete the examination and approve or deny the application for a division or aggregation of land under this section within ~~20~~ 20 working days of the receipt of an application containing all materials and information required by the governing body to conduct its review under regulations adopted pursuant to 76-3-504(1)(p) *and subsection (5); and*

~~(d)~~ (d) may not impose conditions on the approval of a division or aggregation of land under this section except for conditions necessary to ensure compliance with the survey requirements of Title 76, chapter 3, part 4.

(5) The attorney general shall prepare a form affidavit to be used by a governing body to conduct the examination required by this section. The application used by the governing body under subsection (4) must be accompanied by an affidavit from the applicant setting forth the applicant's intentions, including that the proposed use of an exemption is not for the purpose of evading this chapter. A governing body may not force an applicant to appear before the governing body during the examination period.

~~(5)~~ (6) An immediate family member or the spouse of an immediate family member who receives a division of land pursuant to subsection (1)(b) or (2)(b) may not transfer or otherwise convey the division of land for a period of up to 2 years after the date of the division unless the governing body sets a period of less than 2 years. A governing body may authorize variances from these requirements to address hardship situations.

~~(6)~~ (7) If, *after initial approval*, a governing body can prove by documented evidence in a court of competent jurisdiction that a person has knowingly evaded ~~subdivision regulations this chapter~~ through the use of a division of land pursuant to subsection (1)(b) or (2)(b), ~~that person is the exclusive remedy available to the governing body is for the person to be subject to a civil penalty of \$5,000 \$10,000 or an amount equal to 10% of the sales price if the division of land has been sold to a third party, whichever is greater, for each division of land, payable to the governing body.~~

(8) *For the purposes of this section, the following definitions apply:*

(a) (i) "Documented evidence" means written documents, photographs, video, microfilm, digital data, or affidavits.

(ii) The term does not include general observations, opinions, or oral statements unless they are made by the applicant.

(b) “Jointly” means as joint tenants or tenants in common.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 512

[HB 716]

AN ACT REVISING LAWS CONCERNING COUNTY WATER AND SEWER DISTRICTS; CLARIFYING THE TYPE OF REAL PROPERTY OWNERSHIP THAT QUALIFIES AN INDIVIDUAL TO BE A MEMBER ON THE BOARD OF DIRECTORS; AMENDING SECTION 7-13-2233, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-13-2233, MCA, is amended to read:

“7-13-2233. Qualifications of directors. (1) To be eligible for election or appointment to a board of directors, ~~a person~~ *an individual* must be:

(a) registered to vote as required by law;

(b) 18 years of age or older;

(c) a citizen of the United States; and

(d) a resident of the district or an owner of real property in the district who is a resident of the state of Montana. *An individual is an owner of real property in the district if the real property is titled in either an individual name or held in a corporation, partnership, limited liability company, or trust in which the individual is an officer, partner, member, or trustee.*

(2) ~~A person~~ *An individual* appointed to a board of directors as a nonvoting ex officio member as provided in 7-13-2230 must meet the requirements of this section except that the ~~person~~ *individual* may reside outside the boundaries of the district and is not required to own property in the district.

(3) ~~A person~~ *An individual* appointed by a municipality to a board of directors pursuant to 7-13-2232(4) must have knowledge of the municipal water system.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 513

[HB 717]

AN ACT REVISING THE TRANSFER OF A MINING OPERATION TO A SUCCESSOR OPERATOR; PROVIDING FOR THE USE OF EMINENT DOMAIN POWERS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 82-4-340 AND 82-4-341, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 82-4-340, MCA, is amended to read:

“82-4-340. Successor operator. (1) ~~When~~ *Subject to this part, when one operator succeeds to the interest of another in any uncompleted operation by transfer, including sale, assignment, lease, or otherwise, the department may release the first operator from the duties imposed upon on the operator by this*

part;. ~~provided~~ *Provided* that both operators comply with the requirements of this part and the successor operator assumes the duty of the former operator to complete the reclamation of the land ~~and the ability to operate pursuant to the permit or subsequent modifications approved by the department to the permit consistent with this part, in which case~~ the department shall transfer the permit to the successor operator ~~upon~~ *on* department approval of the successor operator's bond ~~and the transfer of property interests~~, as required under this part.

(2) *A transfer by the department to a successor operator pursuant to this section may not affect a lien, claim, encumbrance, or interest in the property subject to operations that the department determines are valid at the time of the transfer and rights and defenses associated with the lien, claim, encumbrance, or interest. This subsection does not apply to a lien, claim, encumbrance, or interest in a property of the original operator or an affiliate or person controlling the operator or affiliate.*

(2)(3) For an operation with a forfeited bond where the department holds a suspended permit pursuant to 82-4-341(8), the department may transfer the permit to a successor operator provided that the successor operator:

(a) complies with the requirements of this part; ~~and~~

(b) assumes the duty of the former operator to complete reclamation *pursuant to this part*;

(c) *operates pursuant to the permit or a subsequent modification approved by the department to the permit; and*

(d) ~~and~~ *submits to the department:*

(i) any additional bond required under 82-4-338; and

(ii) a \$2,000 fee.

(4) *If the department believes there is a potential to transfer a suspended permit, then the department may initiate proceedings in district court for eminent domain of the surface, minerals, or other property interest not held by the United States within or appurtenant to the permit boundary, including ingress and egress to the permit boundary, if:*

(a) *the department makes written findings that it is in the public interest of Montana taxpayers, environmental protection, and reclamation. With the written findings, the right of eminent domain must be considered a public use as included with those listed in 70-30-102. Although not required, the department may consider the following when determining the public interest:*

(i) *the value of the property, fixtures, and potential for operations if the property is transferred, based on an inspection and evaluation by the department or at the department's request prior to initiating eminent domain proceedings pursuant to Title 70, chapter 30;*

(ii) *the existence of tax liens on the property;*

(iii) *the financial liability to the Montana taxpayers for the cost of reclamation or remediation by the department of the operation pursuant to 82-4-341;*

(iv) *whether the county or counties where the permitted operation is located agree that transferring the property interest is in the best interest of the county or counties; and*

(v) *whether there is an immediate environmental need;*

(b) *the property interest is within or appurtenant to the permit boundary of an operator that has been:*

(i) *prohibited from mining pursuant to 82-4-360 for at least 1 year from the date of notice to the operator of the prohibition and the operator does not have a timely, pending appeal pursuant to this part; and*

(ii) *issued a violation letter by the department pursuant to 82-4-361 on a transferred permit;*

(c) the available bond is insufficient for the permitted operation and the amount of the bond forfeited pursuant to 82-4-341 is less than the bond amount calculated pursuant to 82-4-338; and

(d) there is a successor operator who can operate under a permit transferred pursuant to subsection (1). The department and the proposed successor operator may enter into an agreement for the transfer of the property when it is condemned and the department takes possession pursuant to subsection (5).

(5) If the department initiates eminent domain proceedings pursuant to Title 70, chapter 30, and requests immediate possession of the property pursuant to 70-30-311, then the court shall grant the department immediate possession of the property prior to determining compensation.

(6) An eligible successor operator may post the bond required by 70-30-311(3) in accordance with an agreement entered pursuant to 82-4-340(4)(d).

(7) After the department is in possession of the property, the court shall determine compensation pursuant to 70-30-302, except that when determining the value of the property interest the commissioners shall consider:

(a) the greater of the amount:

(i) equal to the difference between the bond amount forfeited pursuant to 82-4-341 and the bond amount calculated pursuant to 82-4-338; or

(ii) necessary to complete site reclamation;

(b) the amount of a tax lien against the property;

(c) the value of mineral interests, development potential, or future mining based solely on the value while in the possession of the original operator, who is prohibited from mining pursuant to 82-4-360; and

(d) other costs incurred by the state to suspend, terminate, or transfer the permit and recover the forfeited bond.

(8) Nothing in this section limits the department's ability to modify the transferred permit or reclamation plan pursuant to this part."

Section 2. Section 82-4-341, MCA, is amended to read:

"82-4-341. Compliance – reclamation by department. (1) The department shall cause the permit area to be inspected at least annually to determine whether the permittee has complied with this part, the rules adopted under this part, or the permit.

(2) The permittee shall proceed with reclamation as scheduled in the approved reclamation plan or as required pursuant to subsection (9). Following written notice by the department noting deficiencies, the permittee shall commence action within 30 days to rectify these deficiencies and shall diligently proceed until the deficiencies are corrected. Deficiencies that also violate other laws that require earlier rectification must be corrected in accordance with the applicable time provisions of those laws. The department may extend performance periods referred to in 82-4-336 and in this section for delays clearly beyond the permittee's control, but only when the permittee is, in the opinion of the department, making every reasonable effort to comply.

(3) Within 30 days after notification by the permittee and when, in the judgment of the department, reclamation of a unit of disturbed land area is properly completed, the department shall provide the public notice and conduct any hearing requested pursuant to 82-4-338. As soon as practicable after notice and hearing, the permittee must be notified in writing and the bond on the area must be released or decreased proportionately to the acreage included within the bond coverage.

(4) The department shall cause the bond to be forfeited if:

(a) reclamation of disturbed land is not pursued in accordance with the reclamation plan and the permittee has not commenced action to rectify deficiencies within 30 days after notification by the department;

(b) reclamation is not properly completed in conformance with the reclamation plan within 2 years after completion or abandonment of operation on any fraction of the permit area or within a longer period that may have been authorized under this part; or

(c) after default by the permittee, the surety either refuses or fails to perform the work to the satisfaction of the department within the time required.

(5) The department shall notify the permittee and the surety by certified mail. If the bond is not paid within 30 days after receipt of the notice, the attorney general, upon request of the department, shall bring an action on behalf of the state in district court.

(6) The department may, with the staff, equipment, and material under its control or by contract with others, take any necessary actions for required reclamation of the disturbed lands according to the existing reclamation plan or a modified reclamation plan if the department makes a written finding that the modifications are necessary to prevent a violation of Title 75, chapter 2 or 5, or to prevent a substantial reclamation failure. Except in an environmental emergency, work provided for in this section must be let on the basis of competitive bidding. The department shall keep a record of all necessary expenses incurred in carrying out the work or activity authorized under this section, including a reasonable charge for the services performed by the state's personnel and the state's equipment and materials used. The surety is liable to the state to the extent of the bond. The permittee is liable for the remainder of the cost. Upon completion of the reclamation, the department shall return to the surety any amount not expended, including any unexpended interest accrued on bond proceeds, unless otherwise agreed to in writing by the surety.

(7) In addition to the other liabilities imposed by this part, failure to commence an action to remedy specific deficiencies in reclamation within 30 days after notification by the department or failure to satisfactorily complete reclamation work on any segment of the permit area within 2 years or within a longer period that the department may permit on the permittee's application or on the department's own motion, after completion or abandonment of operations on any segment of the permit area, constitutes sufficient grounds for cancellation of a permit or license and refusal to issue another permit or license to the applicant. A cancellation action may not be effected while an appeal is pending from any ruling requiring the cancellation of a permit or license.

(8) (a) Except as provided in subsection (8)(e), the department may hold a permit suspended pursuant to 82-4-338 for up to 5 years and place the proceeds from a cash bond forfeited under this section in an interest-bearing account if mining of the ore body identified in the permit or a permit amendment application is not complete. The 5-year period begins on the date the department takes possession of the bond proceeds.

(b) The department may spend bond proceeds from the account during the suspension period to:

(i) perform maintenance, monitoring, and other actions required by the permit;

(ii) abate imminent danger to public health, public safety, or the environment; or

(iii) abate conditions that violate the provisions of Title 75, chapters 2 and 5, or conditions that may cause violations of those provisions.

(c) The department may transfer a permit suspended under this section as provided by 82-4-340 *and the associated property interest pursuant to 70-30-311 to grant the condemnor immediate possession and provide compensation to the property owner pursuant to 70-30-302*. The balance of funds in the account must be retained as a cash bond on behalf of the successor operator.

(d) A transfer by the department to a successor operator pursuant to subsection (2) may not affect a lien, claim, encumbrance, or interest in the property subject to operations, which the department determines is valid at the time of the transfer and rights and defenses associated with the lien, claim, encumbrance, or interest. This subsection (8)(d) does not apply to a lien, claim, encumbrance, or interest in a property of the original operator or an affiliate or person controlling the operator or affiliate.

~~(d)~~(e) The department may revoke a permit suspended under this section if a transfer is not completed within 5 years of the suspension. In the case of a revoked permit, reclamation may proceed pursuant to subsection (6).

~~(e)~~(f) The department may extend a suspension up to 6 months if a potential successor operator is exercising reasonable diligence to complete the transfer. If litigation precludes the transfer, the suspension is stayed until the litigation is resolved.

(g) If the department forfeits a bond pursuant to subsection (8)(a), the operator is liable to the department for the insufficient bond amount, which is the difference between the bond amount forfeited pursuant to 82-4-341 and the bond amount calculated pursuant to 82-4-338. This amount is not subject to a bona fide dispute. The department may initiate cases and proceedings to recover the insufficient bond amount.

(9) (a) If at the time of bond review pursuant to 82-4-338 no mineral extraction or ore processing has occurred on a mine permit area for the past 5 years, the department shall determine whether further suspension of the operation will create conditions that will cause violations of Title 75, chapter 2 or 5, or significantly impair reclamation of disturbed areas. If the department determines in writing that violations of Title 75, chapter 2 or 5, or significant impairment of reclamation will occur, the department shall notify the permittee that the permittee shall, within a reasonable time specified in the notice, abate the conditions or commence reclamation. The department may grant reasonable extensions of time for good cause shown. If the permittee does not abate the conditions or commence reclamation within the time specified in the notice and any extensions, the department shall order either that the condition be abated or that reclamation be commenced.

(b) The permittee may request a hearing on the order by submitting a written request for hearing within 30 days of receipt of the order. A request for hearing stays the order pending a final decision, unless the department determines in writing that the stay will create an imminent threat of significant environmental harm or will significantly impair reclamation.”

Section 3. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 514

[HB 718]

AN ACT ESTABLISHING AN OFFICE OF REENTRY SERVICES IN THE DEPARTMENT OF LABOR AND INDUSTRY; ESTABLISHING A PURPOSE AND DUTIES OF THE OFFICE; PROVIDING THAT THE OFFICE OF

REENTRY SERVICES SHALL COLLABORATE WITH STATE AGENCIES, COMPANIES, AND STAKEHOLDER ORGANIZATIONS; ESTABLISHING REPORTING REQUIREMENTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Office of reentry services -- purpose -- duties --collaboration --stakeholder engagement -- report. (1) There is an office of reentry services in the department of labor and industry.

(2) The purpose of the office is to create a collaborative effort among state agencies to coordinate supportive services for individuals who are exiting or preparing to exit incarceration and reenter communities in Montana, including but not limited to expansion of existing programs and new programs related to:

(a) job training for incarcerated individuals, including skilled-trade and apprenticeship programs;

(b) job placement for individuals after exiting incarceration;

(c) workforce and supportive services, including career education;

(d) the availability of and access to online certificate training programs;

(e) the availability of and access to general or secondary education programs;

(f) initiatives to teach entrepreneurship;

(g) transition planning and housing assistance;

(h) initiatives to ensure individuals exiting incarceration have adequate transportation and food security; and

(i) coordination of care to address behavioral health needs of individuals, including initiatives that improve access to substance abuse and mental health treatment facilities for individuals exiting incarceration.

(3) The office shall coordinate existing reentry programs and services, including grant programs, in collaboration with companies, stakeholder organizations, and agencies, including but not limited to the following:

(a) department of commerce;

(b) department of corrections;

(c) department of justice;

(d) department of public health and human services;

(e) office of commissioner of higher education; and

(f) office of public instruction.

(4) The office shall consult with the Montana state workforce innovation board established in 53-2-1203 to engage in stakeholder outreach in the development of services prescribed in subsection (2). Stakeholders shall include but are not limited to members of the business, mental health, substance use treatment, criminal justice advocacy, and affordable and transitional housing sectors.

(5) By July 1 prior to each legislative session, the department shall submit a report to the legislative finance committee and the law and justice interim committee in accordance with 5-11-210. The report must include a description of the services provided by the office of reentry services over the biennium, the cost of services rendered, and the number of individuals served.

Section 2. Codification instruction. [Section 1] is intended to be codified as a new part in Title 39, chapter 11, and the provisions of Title 39, chapter 11, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 515

[HB 720]

AN ACT GENERALLY REVISING BOARD OF MASSAGE THERAPY MEMBER QUALIFICATIONS; AND AMENDING SECTION 2-15-1782, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-1782, MCA, is amended to read:

“2-15-1782. Board of massage therapy. (1) In accordance with 37-1-123 there is a board of massage therapy.

(2) The board consists of five members:

(a) one health care provider who is not an owner of a school that educates massage therapists;

(b) three massage therapists, none of whom may be an owner of a school that educates massage therapists. ~~None of the three massage therapists may belong to the same national professional association; and~~

(c) one public member.

(3) The board is allocated to the department as prescribed in 2-15-121.”

Approved May 8, 2025

CHAPTER NO. 516

[HB 721]

AN ACT GENERALLY REVISING LAWS RELATED TO THE REGISTERED APPRENTICESHIP PROGRAM; REVISING DUTIES OF THE DEPARTMENT OF LABOR AND INDUSTRY FOR THE REGISTERED APPRENTICESHIP PROGRAM; REVISING ALLOWABLE CREDIT FOR PRIOR TRAINING OR EXPERIENCE; CLARIFYING VOLUNTARY PARTICIPATION OF EMPLOYERS IN THE REGISTERED APPRENTICESHIP PROGRAM AND ITS PROVISIONS; AND AMENDING SECTIONS 39-6-101, 39-6-103, 39-6-106, AND 39-6-107, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-6-101, MCA, is amended to read:

“39-6-101. Duties of department – definitions. (1) The department shall:

(a) encourage and promote the making of apprenticeship agreements conforming to the standards established by or in accordance with this chapter;

(b) register apprenticeship agreements that are in the best interests of the apprenticeship and conform to the standards established by or in accordance with this chapter;

(c) keep a record of apprenticeship agreements and, taking into consideration performance of the agreement, issue certificates of completion of apprenticeship;

(d) terminate or cancel any apprenticeship agreements in accordance with the provisions of the agreements;

(e) ~~provide assistance for the development of on-the-job training programs in nonapprenticeable occupations;~~

(f)(e) establish standards for apprenticeship agreements in conformity with the provisions of this chapter;

(g)(f) use the standard prevailing wage rate for construction services, as defined in 18-2-401, for a prevailing wage rate district as provided in 18-2-411

as a base on which an apprenticeship wage is calculated pursuant to 39-6-108 for apprentices;

(h)(g) adopt rules necessary to carry out the intent and purposes of this chapter; and

(i)(h) perform other duties that may be required by federal regulations, provided that the federal regulations are not in conflict with this chapter.

(2) At least once every 2 years, the department shall report on its activities and findings to the governor and, as provided in 5-11-210, to the legislature. The department shall also make the report available to the public.

(3) For the purposes of this chapter, the following definitions apply:

(a) "Apprentice" means a worker employed to learn a skilled occupation under a written apprenticeship agreement registered with the department.

(b) "Department" means the department of labor and industry."

Section 2. Section 39-6-103, MCA, is amended to read:

"39-6-103. Responsibilities of state and local boards responsible for vocational education. Related and supplemental instruction for apprentices, coordination of instruction with job experiences, and the selection and training of teachers and coordinators for ~~such~~ the instruction shall be the responsibility of state and local boards *that are* responsible for vocational education *in collaboration with the state apprenticeship agency. State and local boards may utilize subject matter experts and national programs in providing related and supplemental instruction.*"

Section 3. Section 39-6-106, MCA, is amended to read:

"39-6-106. Contents of apprenticeship agreements – credit for prior training or experience. (1) Apprenticeship agreements must contain:

(a) a statement of the occupation to be taught and the required hours for completion of apprenticeship, which must be at least 2,000 hours of reasonably continuous employment;

(b) a statement of the processes in the occupational divisions in which the apprentice is to be taught and the approximate amount of time to be spent at each process;

(c) a statement of the number of hours to be spent by the apprentice in related and supplemental instruction. The recommended number of hours is at least 144 hours a year.

(d) a statement that apprentices must be at least 16 years of age;

(e) a statement of the progressively increasing scale of wages to be paid the apprentice using the criteria established in 39-6-108;

(f) provision for a period of probation during which the department shall terminate an apprenticeship agreement at the written request of any participating party. After the probationary period, the department may terminate the registration of an apprentice upon agreement of the parties.

(g) provision that the services of the department may be used for consultation regarding the settlement of differences arising out of the apprenticeship agreement if the differences cannot be adjusted locally or in accordance with the established occupational procedure;

(h) provision that, if an employer is unable to fulfill an obligation under the apprenticeship agreement, the employer may transfer the obligation to another employer if the other employer has been approved as a training facility;

(i) provision for the specification of the ratio of apprentices to journeymen; ~~and The department shall continue to honor and recognize ratio provisions as established in existing labor/management bargaining agreements or as established by an industry practice.~~

(j) additional standards as may be prescribed in accordance with this chapter.

(2) An apprentice who, prior to entering into an agreement, has had training or experience in the occupation in which the apprentice is employed as an apprentice may be granted ~~full or~~ partial credit, *not to exceed 50%*, for the training or experience on the recommendation of the employer or the joint apprenticeship committee and with the approval of the department.”

Section 4. Section 39-6-107, MCA, is amended to read:

“39-6-107. Provisions Participation in program of ~~chapter~~ voluntary. *Participation in the apprenticeship program is voluntary for all employers in the state. The provisions of this chapter apply to a participating person, firm, corporation, or occupation only after the person, firm, corporation, or occupation has voluntarily elected to conform with its provisions.”*

Approved May 8, 2025

CHAPTER NO. 517

[HB 723]

AN ACT ESTABLISHING ANNUAL REPORTING REQUIREMENTS BY MEDICAL FACILITIES OF INFANTS BORN ALIVE; PROVIDING REQUIREMENTS FOR REPORTS; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PUBLISH AN ANNUAL REPORT; AND PROVIDING RULEMAKING AUTHORITY.

Be it enacted by the Legislature of the State of Montana:

Section 1. Reporting requirement – civil penalties – aggregate report by department – rulemaking authority. (1) A medical facility in which an infant is born alive subsequent to an abortion or attempted abortion performed on the mother of the infant shall submit by February 28 of each year an annual report to the department on the number of infants born alive in during the previous calendar year in a form and manner prescribed by the department.

(2) The report must include:

(a) the approximate gestational age of infants who are born alive, expressed in one of the following increments:

- (i) less than 9 weeks;
- (ii) 9 to 10 weeks;
- (iii) 11 to 12 weeks;
- (iv) 13 to 15 weeks;
- (v) 16 to 20 weeks;
- (vi) 21 to 24 weeks;
- (vii) 25 to 30 weeks;
- (viii) 31 to 36 weeks; or
- (ix) 37 weeks to term;

(b) medical actions taken to preserve the life of infants born alive;

(c) the outcome for infants born alive, including survival, death, and location of death, if known; and

(d) medical conditions of infants born alive, including conditions developed prior to and after the attempted abortion.

(3) If the number if infants born alive subsequent to an abortion or attempted abortion performed on the mother of the infant is zero, a report indicating that no infants were born alive subsequent to an abortion or attempted abortion during the reporting period must still be filed.

(4) (a) The department may impose a civil fine in an amount not to exceed \$500 on a medical facility that fails to submit the required report within 30 days after the deadline established in subsection (1).

(b) The department may impose an additional civil fine in an amount not to exceed \$500 on a medical facility for each additional 30-day period that the medical facility fails to submit the required report.

(c) If a medical facility fails to submit a required report more than 1 year following the date that the report is due to the department or if the medical facility submits an incomplete report and fails to correct the deficiencies during the same time period, the department may bring a civil action for an injunction to compel the medical facility to submit the required report.

(5) The department shall adopt a form for reporting as described in subsection (1). The department shall ensure that copies of the form are distributed to medical facilities in the state.

(6) The department shall publish an annual report by June 30 on the aggregate number of abortions resulting in a live birth from the previous calendar year. The report must also provide the numbers of abortions resulting in live births from previous reporting years, adjusted to reflect any additional information for late or corrected reports. The department shall take care to ensure that none of the information included in the report could reasonably lead to the identification of an individual who provides information in accordance with this section.

(7) The department may adopt rules to implement this section, including the form described in subsection (5).

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 50, chapter 20, part 8, and the provisions of Title 50, chapter 20, part 8, apply to [section 1].

Approved May 8, 2025

CHAPTER NO. 518

[HB 732]

AN ACT ESTABLISHING THE PROMPT COST REPORT REIMBURSEMENT ACT; GENERALLY REVISING THE RETROACTIVE ADJUSTMENT PROCESS BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES FOR COST REPORTS SUBMITTED BY CRITICAL ACCESS HOSPITALS; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

WHEREAS, critical access hospitals in Montana participating in the Montana Medicaid program are reimbursed for medical services provided to their communities based on the cost of delivering these services; and

WHEREAS, to effectuate this reimbursement, the critical access hospital submits a cost report to the applicable Medicare administrative contractor identifying the cost of services, which forms the basis for settling interim payments to ensure the Medicare and Medicaid programs have paid the proper amount in reimbursement; and

WHEREAS, the Medicare program performs an interim settlement upon the filing of a cost report with the applicable Medicare administrative contractor; and

WHEREAS, a Medicare administrative contractor periodically performs a desk audit to review previously filed cost reports, and Medicare will perform an additional adjustment as required based upon the final desk audit; and

WHEREAS, the Montana Medicaid program does not perform initial settlements upon the filing of the cost report and instead waits to settle cost reports until the Medicare administrative contractor has performed the final desk audit; and

WHEREAS, Montana Medicaid's practice of waiting to settle cost reports until the final desk audit is performed has resulted in multiple-year delays in settling reimbursement for participating critical access hospitals whose cost reports are selected for a Medicare audit; and

WHEREAS, aligning Montana Medicaid's practice with Medicare's practice will ensure proper fiscal management for the Montana Medicaid program and provide timely and accurate reimbursement to Montana critical access hospitals.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 3] may be cited as the "Prompt Cost Report Reimbursement Act".

Section 2. Purpose. (1) The legislature finds that providers of service that participate in medicare and Montana medicaid are required to submit information to achieve the settlement of costs relating to health care social services rendered to beneficiaries. The submitted cost reports cover the providers' fiscal year of operations based on the providers' accounting year.

(2) The legislature finds that to balance prompt reimbursement to providers and maintain Montana medicaid's program integrity, the Montana medicaid program shall align cost-based reimbursement procedures with the procedures utilized by the medicare program. This includes prompt initial settlement upon submission of a provider's cost report and subsequent adjustment after a desk review or audit of the cost report is performed by the applicable medicare administrative contractor.

(3) [Sections 1 through 3] apply to annual cost reports when submitted by a critical access hospital, as defined 50-5-101.

Section 3. Retroactive adjustment and settlement of cost report. (1) (a) To reimburse a provider as quickly as possible, the department of public health and human services shall perform a tentative retroactive adjustment when a cost report is received by the applicable medicare administrative contractor.

(b) Costs must be accepted as reported except for obvious errors or inconsistencies, subject to adjustment by a later audit.

(c) The department shall make an interim settlement of the report and, if applicable, payment to the provider within 240 days after receipt of the cost report by the medicare administrative contractor or within 30 days after receipt of the interim medicaid cost settlement from the medicare administrative contractor, whichever occurs sooner.

(d) In the event of an overpayment, the provider has 60 days from the date of the initial notification indicated by the interim cost settlement to repay the amount of the overpayment, or to have an agreed upon repayment schedule.

(2) (a) Upon receipt of the final desk review or audit of the cost report by the applicable medicare administrative contractor, the department shall perform a final retroactive adjustment and, if applicable, a final settlement of the cost report.

(b) In the event of an overpayment, the provider has 60 days from the date of the initial notification to repay the amount of the overpayment or to have

an agreed upon repayment schedule. In the event of an underpayment, the department will reimburse the provider within 90 days from the date of the initial notification to the provider.

(3) As used in this section, “medicare administrative contractor” has the same meaning as provided in 42 CFR 421.401 and also includes an intermediary as defined in 42 CFR 421.3.

Section 4. Transition. Notwithstanding the provisions of [section 7], the department of public health and human services shall settle all cost reports submitted prior to [the effective date of this act] within 240 days of [the effective date of this act].

Section 5. Appropriation. (1) There is appropriated \$33,900 from the hospital medicaid reimbursement account established in 53-6-149 and \$33,900 from the federal special revenue fund to the department of public health and human services for the fiscal year beginning July 1, 2025, for the settlement of cost reports described in [sections 3 and 4].

(2) There is appropriated \$7,500 from the hospital medicaid reimbursement account established in 53-6-149 and \$7,500 from the federal special revenue fund to the department of public health and human services for the fiscal year beginning July 1, 2026, for the settlement of cost reports described in [sections 3 and 4].

(3) The legislature intends that the appropriation of \$15,000 from the hospital medicaid reimbursement account established in 53-6-149 and \$15,000 from the federal special revenue fund for the biennium be considered as part of the ongoing base for the next legislative session.

Section 6. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 53, chapter 6, and the provisions of Title 53, chapter 6, apply to [sections 1 through 3].

Section 7. Effective date. [This act] is effective on passage and approval and subject to the requirements of the centers for medicare and medicaid services.

Section 8. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to cost reports submitted prior to [the effective date of this act].

Approved May 8, 2025

CHAPTER NO. 519

[HB 735]

AN ACT GENERALLY REVISING ALCOHOL LICENSE LAWS; PROVIDING DEFINITIONS; PROVIDING LICENSED ENTITIES THAT MUST HAVE APPLICANTS SUBMIT FINGERPRINTS; AMENDING SECTIONS 16-1-106 AND 16-4-414, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 16-1-106, MCA, is amended to read:

“16-1-106. Definitions. As used in this code, the following definitions apply:

(1) “Agency franchise agreement” means an agreement between the department and a person appointed to sell liquor as a commission merchant rather than as an employee.

(2) “Agency liquor store” means a store operated under an agency franchise agreement in accordance with this code for the purpose of selling liquor at either the posted or the retail price for off-premises consumption.

(3) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

(4) "Alcoholic beverage" means a compound produced and sold for human consumption as a drink that contains more than 0.5% of alcohol by volume.

(5) (a) "Beer" means:

(i) a malt beverage containing not more than 8.75% of alcohol by volume; or
(ii) an alcoholic beverage containing not more than 14% alcohol by volume:

(A) that is made by the alcoholic fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted cereal grain; and

(B) in which the sugars used for fermentation of the alcoholic beverage are at least 75% derived from malted cereal grain measured as a percentage of the total dry weight of the fermentable ingredients.

(b) The term does not include a caffeinated or stimulant-enhanced malt beverage.

(6) "Beer importer" means a person other than a brewer who imports malt beverages.

(7) "Beer wholesaler" means a person importing into or purchasing in Montana beer for sale or resale to retailers licensed in Montana.

(8) "*Board member*" means an individual serving on the governing board of a corporation, nonprofit corporation, cooperative association, or similar business entity.

(8)(9) "Brewer" means a person who produces malt beverages.

(10) "*Business entity*" means any organization formed under the laws of this state or another jurisdiction, including but not limited to a corporation, limited liability company, partnership, limited partnership, limited liability partnership, sole proprietorship, trust, nonprofit corporation, cooperative association, or any other legal entity recognized by law.

(9)(11) "Caffeinated or stimulant-enhanced malt beverage" means:

(a) a beverage:

(i) that is fermented in a manner similar to beer and from which some or all of the fermented alcohol has been removed and replaced with distilled ethyl alcohol;

(ii) that contains at least 0.5% of alcohol by volume;

(iii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of beer as described in 27 CFR 25.55; and

(iv) to which is added caffeine or other stimulants, including but not limited to guarana, ginseng, and taurine; or

(b) a beverage:

(i) that contains at least 0.5% of alcohol by volume;

(ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of beer as described in 27 CFR 25.55;

(iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract;

(iv) to which is added caffeine or other stimulants, including but not limited to guarana, ginseng, and taurine;

(v) for which the producer is required to file a formula for approval with the United States alcohol and tobacco tax and trade bureau pursuant to 27 CFR 25.55; and

(vi) that is not exempt pursuant to 27 CFR 25.55(f).

(10)(12) "Community" means:

(a) in an incorporated city or town, the area within the incorporated city or town boundaries;

(b) in an unincorporated city or area, the area identified by the federal bureau of the census as a community for census purposes; and

(c) in a consolidated local government, the area of the consolidated local government not otherwise incorporated.

~~(11)~~(13) "Concessionaire" means an entity that has a concession agreement with a licensed entity.

(14) *"Cooperative association" means an entity organized under Title 35, chapter 15, or equivalent laws of another jurisdiction, operating on a cooperative basis for the mutual benefit of its members.*

(15) *"Corporation" means an entity organized under Title 35, chapter 14, or any other corporate entity organized under the laws of another jurisdiction and authorized to do business in Montana.*

~~(12)~~(16) "Curbside pickup" means the sale of alcoholic beverages that meets the requirements of 16-3-312.

~~(13)~~(17) "Department" means the department of revenue, unless otherwise specified, and includes the department of justice with respect to receiving and processing, but not granting or denying, an application under a contract entered into under 16-1-302.

(18) *"General partner" means a partner in a partnership who has management authority and personal liability for the obligations of the partnership.*

(19) *"General partnership" means a partnership formed under Title 35, chapter 10, or a partnership organized under the laws of another jurisdiction.*

~~(14)~~(20) "Growler" means any fillable, sealable container complying with federal law.

~~(15)~~(21) (a) "Guest ranch" means a business or organization that provides guests with overnight lodging, dining, and onsite outdoor recreational activities typical of western ranching for the purposes of vacation or recreation. Recreational activities offered by a guest ranch may include but are not limited to horseback riding, wagon or sleigh rides, shooting, and working with livestock. The property of a guest ranch must be composed of at least 50 contiguous acres. The property must be located entirely outside the license quota area of an incorporated city or an incorporated town as determined under 16-4-105(1) or 16-4-201. The premises of a guest ranch may include restaurants, sporting and recreational equipment shops, event venues, arenas, and other facilities that may be used by other persons in addition to the overnight guests.

(b) The term does not include premises used as rehabilitation centers, group homes, clinics, nursing homes, church or other religious campgrounds, or other similar uses.

~~(16)~~(22) "Hard cider" means an alcoholic beverage that is made from the alcoholic fermentation of the juices of apples or pears and that contains not less than 0.5% of alcohol by volume and not more than 8.5% of alcohol by volume, including but not limited to flavored, sparkling, or carbonated cider.

~~(17)~~(23) "Immediate family" means a spouse, dependent children, or dependent parents.

~~(18)~~(24) "Import" means to transfer beer or table wine from outside the state of Montana into the state of Montana.

(25) *"Limited liability company" means an entity organized under Title 35, chapter 8, or any other limited liability company organized under the laws of another jurisdiction and authorized to do business in Montana.*

(26) *"Limited liability partnership" means a partnership registered under Title 35, chapter 10, part 7, or the equivalent laws of another jurisdiction, where partners have limited liability for the partnership's obligations.*

(27) *“Limited partner” means a partner in a limited partnership whose liability is limited to their investment in the partnership and who does not participate in management.*

(28) *“Limited partnership” means a partnership formed under Title 35, chapter 12, or the equivalent laws of another jurisdiction, consisting of one or more general partners and one or more limited partners.*

(19)(29) *“Liquor” means an alcoholic beverage except beer and table wine. The term includes a caffeinated or stimulant-enhanced malt beverage.*

(20)(30) *“Location manager” means a person who provides general oversight of the alcoholic beverage operations and ensures compliance with alcoholic beverage laws and regulations. A location manager may be an owner of a license, an employee of the licensee, or an a business entity that contracts to provide services for the licensee.*

(21)(31) *“Malt beverage” means:*

(a) *an alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or their parts or their products and with or without other malted cereals and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared from carbohydrates and with or without other wholesome products suitable for human food consumption; or*

(b) *an alcoholic beverage made by the fermentation of malt substitutes, including rice, grain of any kind, glucose, sugar, or molasses that has not undergone distillation.*

(32) *“Managing member” means a member of a limited liability company who is designated to manage the company under its operating agreement or applicable law.*

(33) *“Member” means an owner of a limited liability company.*

(34) *“Nonprofit corporation” means a corporation organized under Title 35, chapter 2, or any similar laws of another jurisdiction that does not distribute income to its members, directors, or officers except as permitted by law.*

(35) *“Officer” means an individual elected or appointed to manage the daily operations of a business entity as provided in its governing documents or applicable law.*

(22)(36) (a) *“Original package” means the sealed container in which a manufacturer packages its product for retail sale.*

(b) *The term includes but is not limited to:*

(i) *bottles;*

(ii) *cans; and*

(iii) *kegs.*

(23)(37) *“Package” means a container or receptacle used for holding an alcoholic beverage.*

(38) *“Partner” means a person who shares ownership in a partnership, whether in a general partnership, limited partnership, or limited liability partnership.*

(39) *“Partnership” means an association of two or more persons to carry on as co-owners of a business for profit, including a general partnership, limited partnership, or limited liability partnership.*

(24)(40) *“Posted price” means the wholesale price of liquor for sale to persons who hold liquor licenses as fixed and determined by the department and in addition an excise and license tax as provided in this code. In the case of sacramental wine sold in agency liquor stores, the wholesale price may not exceed the sum of the department’s cost to acquire the sacramental wine, the department’s current freight rate to agency liquor stores, and a 20% markup.*

(25)(41) "Prepared serving" means a container of alcoholic beverages, filled at the time of sale and sealed with a lid, for consumption at a place other than the licensee's premises.

(42) "*Privately held corporation*" means a corporation that is not a publicly traded corporation and whose ownership interests are not offered or traded on a public market.

(26)(43) "Proof gallon" means a U.S. gallon of liquor at 60 degrees on the Fahrenheit scale that contains 50% of alcohol by volume.

(27)(44) "Public place" means a place, building, or conveyance to which the public has or may be permitted to have access and any place of public resort.

(45) "*Publicly traded corporation*" means a corporation whose securities are listed on a national securities exchange or otherwise traded in a public market.

(28)(46) "Retail price" means the price established by an agent for the sale of liquor to persons who do not hold liquor licenses. The retail price may not be less than the department's posted price.

(29)(47) "Rules" means rules adopted by the department or the department of justice pursuant to this code.

(30)(48) "Sacramental wine" means wine that contains more than 0.5% but not more than 24% of alcohol by volume that is manufactured and sold exclusively for use as sacramental wine or for other religious purposes.

(31)(49) "Special event", as it relates to an application for a beer and wine special permit, means a short, infrequent, out-of-the-ordinary occurrence, such as a picnic, fair, reception, or sporting contest.

(32)(50) "State liquor warehouse" means a building owned or under control of the department for the purpose of receiving, storing, transporting, or selling alcoholic beverages to agency liquor stores.

(33)(51) "Storage depot" means a building or structure owned or operated by a brewer at any point in the state of Montana off and away from the premises of a brewery, which building or structure is equipped with refrigeration or cooling apparatus for the storage of beer and from which a brewer may sell or distribute beer as permitted by this code.

(34)(52) "Subwarehouse" means a building or structure owned or operated by a licensed combined beer wholesaler and table wine distributor, located at a site in Montana other than the site of the combined beer wholesaler's and table wine distributor's warehouse, and used for the receiving, storage, and distribution of beer, table wine, or sacramental wine as permitted by this code.

(35)(53) "Table wine" means wine that contains not more than 16% of alcohol by volume and includes hard cider.

(36)(54) "Table wine distributor" means a person importing into or purchasing in Montana table wine or sacramental wine for sale or resale to retailers licensed in Montana and a person importing into or purchasing in Montana table wine for sale or resale to agency liquor stores.

(55) "*Trust*" means a fiduciary relationship in which one person, the trustee, holds legal title to property for the benefit of another person, the beneficiary.

(56) "*Trustee*" means a person or entity with legal responsibility to manage a trust's assets for the benefit of its beneficiaries.

(37)(57) "Warehouse" means a building or structure located in Montana that is owned or operated by a licensed combined beer wholesaler and table wine distributor for the receiving, storage, and distribution of beer or table wine as permitted by this code.

(38)(58) "Wine" means an alcoholic beverage made from or containing the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than

0.5% but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies, sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other alcoholic beverages not defined in this subsection but made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine.”

Section 2. Section 16-4-414, MCA, is amended to read:

“16-4-414. Fingerprints required of applicants and location managers – exceptions. (1) (a) Except as provided in subsection (2), an applicant for a license under this code, an individual who must meet the requirements of 16-4-401 for the issuance of a new license or for the approval of the transfer of a license, and any person employed by the applicant as a location manager shall submit their fingerprints with the application to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation. The results of the investigation must be used by the department in determining the applicant’s eligibility for a license.

(b) *For purposes of this section, “a license under this code” means:*

- (i) *a winery license issued pursuant to 16-3-411;*
 - (ii) *a brewery license issued pursuant to 16-4-101;*
 - (iii) *a beer and wine license issued pursuant to 16-4-105;*
 - (iv) *a golf course beer and wine license issued pursuant to 16-4-109;*
 - (v) *a beer and wine license for a tribal alcoholic beverages licensee or enlisted personnel, noncommissioned officers’, or officers’ club issued pursuant to 16-4-110;*
 - (vi) *a combined beer wholesaler and table wine distributor license issued pursuant to 16-4-113;*
 - (vii) *a beer and wine license for off-premises consumption issued pursuant to 16-4-115;*
 - (viii) *an all-beverages license issued pursuant to 16-4-201;*
 - (ix) *an airport all-beverages license issued pursuant to 16-4-208;*
 - (x) *an all-beverages license for a tribal alcoholic beverages licensee or enlisted personnel, noncommissioned officers’, or officers’ club issued pursuant to 16-4-209;*
 - (xi) *a resort retail all-beverages license issued pursuant to 16-4-213;*
 - (xii) *a passenger carrier license issued pursuant to 16-4-302;*
 - (xiii) *a special beer and table wine license for nonprofit arts organizations issued pursuant to 16-4-303;*
 - (xiv) *a beer and wine license for Yellowstone airport issued pursuant to 16-4-304;*
 - (xv) *a Montana heritage retail alcoholic beverage license issued pursuant to 16-4-305;*
 - (xvi) *a distillery license issued pursuant to 16-4-311;*
 - (xvii) *a sacramental wine license issued pursuant to 16-4-313;*
 - (xviii) *an academic brewer license issued pursuant to 16-4-314;*
 - (xix) *a limited all-beverages license for continuing care retirement communities issued pursuant to 16-4-315; or*
 - (xx) *a restaurant beer and wine license issued pursuant to 16-4-420.*
- (2) (a) If the applicant is a publicly traded corporation, an officer and any person employed by the applicant as a location manager are subject to the fingerprint and background check in subsection (1).
- (b) If the applicant employs a business entity as a location manager, a person designated pursuant to 16-4-419(3) is subject to the fingerprint and background check in subsection (1).

(c) A change in the form of a licensee's business entity that does not result in any person having a new ownership interest in the business is not grounds for the department to require a fingerprint or background check.

(3) Approved applicants may use a single background check and set of fingerprints for multiple license applications within 5 years. Applicants must attest that no criminal charges have been filed since the background check was last completed."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 520

[HB 736]

AN ACT PROVIDING FOR NUTRIENT LOADING OFFSETS, OFFSET AMOUNTS, AND TRADING CREDITS FOR WATER QUALITY DISCHARGE PERMITS; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Nutrient loading offsets and trading credits. (1) Under a permit issued pursuant to 75-5-401, a point source discharger to state surface waters may receive nutrient loading offsets or trading credits to satisfy permitting requirements, including nutrient effluent limitations established pursuant to this part and nutrient effluent limitations derived from waste load allocations established pursuant to 75-5-703.

(2) Nutrient loading offsets and trading credits may be authorized for increases in or continuation of nutrient discharges when a net decrease in nutrient loading within the United States geological survey-designated 12-digit hydrologic unit code subbasin, or immediately adjacent 12-digit hydrologic unit code subbasin when the project is in close proximity to the adjacent 12-digit hydrologic unit code subbasin, is achieved through reductions from other point sources or nonpoint sources within the subbasin, either up gradient or down gradient of the applicant. The applicant shall quantify and verify reductions from projects based on the methodologies developed by the department pursuant to subsection (4) or based on sufficient and credible site-specific data and methodologies that are reviewed and accepted by the department.

(3) For reductions that satisfy subsections (2) and (4), the offset or trading credit must be measured as:

- (a) 100% of a reduction from point source discharges;
- (b) 80% of a reduction from an up-gradient, nonpoint source discharge; or
- (c) 50% of a reduction from a down-gradient, nonpoint source discharge.

(4) (a) The department shall establish acceptable methodologies, based on readily available watershed characteristics, to determine the reduction in nutrient loading for nonpoint sources, including for:

- (i) riparian fencing programs based on the number of feet of streambank;
- (ii) riparian vegetation programs based on the number of acres vegetated;
- (iii) development of wetlands in areas of irrigation water return flows based on the number of acres associated with the return flows; or
- (iv) removal of septic systems based on the number and size of septic systems removed.

(b) Other projects and methods may be proposed by an applicant or permittee that are supported by science and data modeling and are not contrary to existing data.

(c) The department shall use the methodologies established pursuant to this subsection (4) unless there is clear and convincing evidence that the nutrient loading of the proposed action would be substantially different from that determined by the established methodologies.

Section 2. Directions to department. To implement the provisions of [section 1], the department shall amend:

(1) department circular DEQ-13, Montana's policy for nutrient trading, as adopted in December 2012; and

(2) ARM 17.30.1701.

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 75, chapter 5, part 4, and the provisions of Title 75, chapter 5, part 4, apply to [section 1].

Section 4. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 5. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 521

[HB 739]

AN ACT REVISING LAWS REGARDING AGRICULTURAL VEHICLES; REQUIRING MOTOR VEHICLES TO SLOW DOWN WHEN APPROACHING AN AGRICULTURAL VEHICLE; REQUIRING AN AGRICULTURAL VEHICLE TO MOVE OVER WHEN SAFE TO ALLOW VEHICLES TO PASS; AND PROVIDING DEFINITIONS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Slowing down when approaching agricultural vehicles – definitions. (1) The operator of a motor vehicle when approaching an agricultural vehicle that is traveling in the same direction on a highway:

(a) shall cautiously and carefully reduce the vehicle's speed to the speed of the agricultural vehicle; and

(b) may pass the agricultural vehicle where passing is allowed.

(2) The operator of a motor vehicle when approaching an agricultural vehicle traveling in a different direction shall cautiously and carefully reduce the vehicle's speed to a speed that is one-half the speed of the posted speed limit. If there are multiple lanes of traffic that the operator of a motor vehicle subject to this subsection (2) may be traveling in, the operator shall move out of the lane closest to the center line when it is safe to do so.

(3) The operator of an agricultural vehicle behind which a line of vehicles has formed shall turn off the highway at the nearest area where a sufficient and safe turnout exists in order to permit the vehicles following it to proceed. If the shoulder of the highway to the right of the slow-moving vehicle is wide enough and is in a condition that allows safe travel, the operator of the agricultural vehicle may drive onto the shoulder and proceed at a safe speed until the other vehicles have passed.

(4) As used in this section, the following definitions apply:

(a) "Agricultural vehicle" means:

(i) a farm tractor as defined in 61-9-102;

(ii) an implement of husbandry as defined in 61-1-101;

(iii) a self-propelled farm equipment unit;

(iv) a combination of farm tractor and towed unit of farm equipment or implement of husbandry; or

(v) a vehicle used for hauling hay, straw, or both.

(b) "Highway" has the same meaning as provided in 61-1-101.

(c) "Motor vehicle" has the same meaning as provided in 61-1-101.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 61, chapter 8, part 3, and the provisions of Title 61, chapter 8, part 3, apply to [section 1].

Approved May 8, 2025

CHAPTER NO. 522

[HB 742]

AN ACT REVISING LOCAL GOVERNMENT NUISANCE LAWS; REQUIRING A MINIMUM COMPLAINT THRESHOLD BEFORE A COUNTY OFFICER MAY CONDUCT SITE INSPECTIONS; FURTHER DEFINING PUBLIC NUISANCE; AMENDING SECTIONS 7-5-2111 AND 7-5-4104, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-5-2111, MCA, is amended to read:

"7-5-2111. Control of community decay. (1) The governing body of a county may regulate, control, and prohibit conditions that contribute to community decay on or adjacent to any public roadway within the county by adoption of an ordinance that substantially complies with the provisions of 7-5-103 through 7-5-107.

(2) An ordinance adopted under subsection (1) may include time limits for removal or shielding of such conditions as considered appropriate by the governing body.

(3) (a) *Except as provided in subsection (3)(b), if the governing body of a county allows for community decay complaints to be filed by citizens, complaints must be received by at least three property owners located within one-fourth of a mile from the property for which the complaint is filed before an officer of the county may conduct a site inspection.*

(b) *If the governing body of a county determines that a condition is a health violation that may affect the surrounding community, the governing body may proceed to regulate, control, or prohibit the condition without receiving citizen complaints as required in subsection (3)(a).*

(3)(4) Nothing in this section restricts the governing body from enacting community decay controls affecting only portions of the county.

(4)(5) Nothing in this section or 7-5-2110 may be construed to abrogate or affect the provisions of any lawful ordinance, regulation, or resolution that is more restrictive than the provisions of this section or 7-5-2110.

(5)(6) For the purposes of enforcing an ordinance adopted under subsection (1), the county governing body may provide that, after giving due notice, in writing, of violation and upon the failure of the property owner to comply with the ordinance, officers and employees of the county may enter upon the property for the specific purpose of abating the violation of the ordinance and may assess

the property owner for the actual costs for the abatement. Nonpayment of such an assessment becomes a lien upon the property and is enforceable in the same manner as the nonpayment of property taxes is enforced.”

Section 2. Section 7-5-4104, MCA, is amended to read:

“7-5-4104. Control of nuisances – exception. (1) The city or town council has power to:

(a) ~~define and abate nuisances and impose fines upon persons guilty of creating, continuing, or suffering a nuisance to exist on the premises that they occupy or control, control, and abate all conditions:~~

(i) that endanger health or safety;

(ii) that are offensive to the senses; or

(iii) that obstruct the free use of property that interferes with the comfortable enjoyment of life or property by an entire community or neighborhood or by any considerable number of persons; and

~~(b) regulate and prohibit the wearing of hats or bonnets at theaters or public places of amusement; and~~

~~(c)(b) enforce the penalty for violations of 7-5-4113 and post copies of 7-5-4113 in conspicuous locations in the municipality.~~

(2) A condition that affects an entire committee or neighborhood or any considerable number of persons as provided in subsection (1)(a)(iii) is no less a nuisance because the extent of the annoyance or damage inflicted on individuals is unequal.

~~(2)(3) The city or town council may not prohibit the placing of a “notice of violation” card on a motor vehicle illegally parked in an accessible parking space.”~~

Section 3. Effective date. [This act] is effective January 1, 2026.

Approved May 8, 2025

CHAPTER NO. 523

[HB 743]

AN ACT ESTABLISHING REPORTING REQUIREMENTS RELATED TO ALLEGATIONS OF EXPLOITATION; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO FORWARD MATERIALS PERTAINING TO AN ALLEGED OFFENSE OF EXPLOITATION OF AN INCAPACITATED PERSON OR VULNERABLE ADULT TO THE COUNTY ATTORNEY; REQUIRING EACH COUNTY ATTORNEY AND THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO REPORT TO THE ATTORNEY GENERAL; REVISING THE CONTENT OF REPORTS; AND AMENDING SECTION 52-3-812, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. County attorney duties – ~~retention of records – report to attorney general and legislature – attorney general report.~~

(1) (a) If the department receives a report of an allegation of exploitation of a victim pursuant to 52-3-811 that would constitute a crime under 45-6-333 and determines the report to be credible following an investigation, the department shall forward materials pertaining to the allegation to the county attorney where the alleged victim resides. If the alleged perpetrator is not identified, the county attorney shall request the department to provide the name or other available information to assist in identifying the alleged perpetrator.

(b) The duty to provide records to the county attorney under subsection (1)(a) remains throughout the course of an investigation or the prosecution of a case involving the exploitation of an incapacitated person or vulnerable adult.

(2) On or before July 1 of each year, each county attorney shall report to the attorney general. The report to the attorney general must include, for each report from the department:

(a) a unique case identifier;

(b) the date that the initial report or allegation was received by the county attorney;

(c) the date any charges were filed;

(d) the date of any decision to decline to prosecute;

(e) if charges are filed against a defendant, whether a conviction was obtained and, if a conviction was obtained, the sentence imposed by the court;

(f) the number of referrals made to the county attorney pursuant to subsection (1); and

(g) the number of reports presented that have not resulted in a prosecution or a declination of prosecution within 2 years of the date of the initial report received by the county attorney, and the basis for not making a decision on whether to prosecute or decline prosecution in the matters reported.

(3) (a) The attorney general shall create a form for county attorneys to use when submitting reports required by subsection (2). The form must allow collection of the information required by subsection (2) on an aggregated, cumulative basis for a 5-year period until charges are filed or a decision is made to decline to prosecute.

(4) The attorney general shall report to the law and justice interim committee each year by September 1 in accordance with 5-11-210. Except as provided in subsection (4)(e), the report must provide by county:

(a) aggregated information regarding the status of the cases reported in subsection (3) by the county attorneys, except for those cases pending review of the county attorney or uncharged cases still under investigation, including data on the total number of cases reported;

(b) the number of cases declined for prosecution;

(c) the number of cases charged;

(d) after consideration of the information provided by the department pursuant to [section 2], any county attorney who failed to provide a complete report required by subsection (3); and

(e) any action in the past fiscal year that the attorney general took under the authority of 2-15-501 based on the reports submitted as required in subsection (2). A report made pursuant to this subsection (4)(e) may not include the name of the county.

Section 2. Department report to attorney general. (1) By September 15 of each even-numbered year, the department shall report to the attorney general and the law and justice interim committee in accordance with 5-11-210 the number of referrals to county attorneys by county pursuant to 52-3-811 for suspected offenses under 45-6-333.

(2) The attorney general may request investigative findings from the department and the county attorney for a case that the county attorney declined to prosecute under 45-6-333 and determine if the facts support the conclusion.

Section 3. Section 52-3-812, MCA, is amended to read:

“52-3-812. Content of report. (1) The report required by 52-3-811 may be made in writing or orally, by telephone, in person, or electronically through the department. A person who receives an oral report shall prepare it in writing as soon as possible.

(2) The report referred to under this section must contain:

(a) the names and addresses of the vulnerable adult and the person, if any, responsible for the vulnerable adult's care;

(b) the name and address, if available, of the person who is alleged to have abused, sexually abused, neglected, or exploited the vulnerable adult;

(c) to the extent known, the vulnerable adult's age and the nature and extent of the abuse, sexual abuse, neglect, or exploitation, including any evidence of previous injuries, abuse, sexual abuse, neglect, or exploitation sustained by the vulnerable adult and any evidence of prior instances of abuse, sexual abuse, neglect, or exploitation of other vulnerable adults committed by the person alleged to have committed abuse, sexual abuse, neglect, or exploitation; and

(d) the name, *telephone number*, and address of the person making the report."

Section 4. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 52, chapter 3, part 8, and the provisions of Title 52, chapter 3, part 8, apply to [sections 1 and 2].

Section 5. Coordination instruction. If both House Bill No. 532 and [this act] are passed and approved, and if House Bill No. 532 contains a section that repeals 45-6-333, a section that establishes the offense of exploitation of an incapacitated person or vulnerable adult, and a section that amends 45-6-332, then [section 1 of this act] is void and must be replaced with:

"Section 1. County attorney duties – report to attorney general and legislature – attorney general report. (1) (a) If the department receives a report of an allegation of exploitation of a victim pursuant to 52-3-811 that would constitute a crime under [section 4 of House Bill No. 532] or the crime of theft of identity in which the victim is an incapacitated person or vulnerable adult pursuant to 45-6-332, and the department determines the report to be credible following an investigation, the department shall forward materials pertaining to the allegation to the county attorney where the alleged victim resides. If the alleged perpetrator is not identified, the county attorney shall request the department to provide the name or other available information to assist in identifying the alleged perpetrator.

(b) The duty to provide records to the county attorney under subsection (1)(a) remains throughout the course of an investigation or the prosecution of a case involving the exploitation or theft of identity of an incapacitated person or vulnerable adult.

(2) On or before July 1 of each year, each county attorney shall report to the attorney general. The report to the attorney general must include, for each report from the department:

(a) a unique case identifier;

(b) the date that the initial report or allegation was received by the county attorney;

(c) the date any charges were filed;

(d) the date of any decision to decline to prosecute;

(e) if charges are filed against a defendant, whether a conviction was obtained and, if a conviction was obtained, the sentence imposed by the court;

(f) the number of referrals made to the county attorney pursuant to subsection (1); and

(g) the number of reports presented that have not resulted in a prosecution or a declination of prosecution within 2 years of the date of the initial report received by the county attorney, and the basis for not making a decision on whether to prosecute or decline prosecution in the matters reported.

(3) (a) The attorney general shall create a form for county attorneys to use when submitting reports required by subsection (2). The form must allow

collection of the information required by subsection (2) on an aggregated, cumulative basis for a 5-year period until charges are filed or a decision is made to decline to prosecute.

(4) The attorney general shall report to the law and justice interim committee each year by September 1 in accordance with 5-11-210. Except as provided in subsection (4)(e), the report must provide by county:

(a) aggregated information regarding the status of the cases reported in subsection (3) by the county attorneys, except for those cases pending review of the county attorney or uncharged cases still under investigation, including data on the total number of cases reported;

(b) the number of cases declined for prosecution;

(c) the number of cases charged;

(d) after consideration of the information provided by the department pursuant to [section 2], any county attorney who failed to provide a complete report required by subsection (3); and

(e) any action in the past fiscal year that the attorney general took under the authority of 2-15-501 based on the reports submitted as required in subsection (2). A report made pursuant to this subsection (4)(e) may not include the name of the county.”

Section 6. Coordination instruction. If both House Bill No. 532 and [this act] are passed and approved, and if House Bill No. 532 contains a section that repeals 45-6-333, a section that establishes the offense of exploitation of an incapacitated person or vulnerable adult, and a section that amends 45-6-332, then [section 2 of this act] is void and must be replaced with:

“**Section 2. Department report to attorney general.** (1) By September 15 of each even-numbered year, the department shall report to the attorney general and the law and justice interim committee in accordance with 5-11-210 the number of referrals to county attorneys by county pursuant to 52-3-811 for suspected offenses under [section 4 of House Bill No. 532] and suspected offenses of theft of identity of an incapacitated person or vulnerable adult pursuant to 45-6-332.

(2) The attorney general may request investigative findings from the department and the county attorney for a case that the county attorney declined to prosecute under [section 4 of House Bill No. 532] or 45-6-332 and determine if the facts support the conclusion.”

Approved May 8, 2025

CHAPTER NO. 524

[HB 744]

AN ACT PROVIDING FOR SPEECH-LANGUAGE PATHOLOGY AIDES AND AUDIOLOGY AIDES; PROVIDING THAT A SPEECH-LANGUAGE PATHOLOGY AIDE OR AUDIOLOGY AIDE IS NOT REQUIRED TO BE LICENSED; PROVIDING REQUIREMENTS FOR A SPEECH-LANGUAGE PATHOLOGY AIDE OR AUDIOLOGY AIDE; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 37-15-301, MCA; AND PROVIDING EFFECTIVE DATES AND A CONTINGENT TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-15-301, MCA, is amended to read:

“**37-15-301. License required – exception – rulemaking.** (1) A license must be issued to qualified persons either in speech-language pathology or

audiology. A person may be licensed in both areas if the person meets the respective qualifications, and in those instances, the license fee must be as though for one license.

(2) A person may not practice or represent to the public that the person is a speech-language pathologist, an audiologist, a speech-language pathology assistant, or an audiology assistant in this state unless the person is licensed in accordance with the provisions of this chapter.

(3) The board may issue a limited license to qualified individuals engaged in supervised professional experience, as defined by board rule.

(4) *The board shall establish by rule the qualifications and permitted activities for speech-language pathology aides and audiology aides who are employed by a school district as defined in 20-6-101. The rules may not require the speech-language pathology aide or audiology aide employed by a school district to be licensed by the board. The rules adopted by the board may not be more restrictive than the requirements in subsection (5).*

(5) *A speech-language pathology aide or audiology aide employed by a school district:*

(a) is not required to be licensed by the board;

(b) shall work under the supervision of a speech-language pathologist or an audiologist a minimum of 20% of the time; and

(c) may not perform work that requires the independent judgment of a speech-language pathologist or audiologist."

Section 2. Section 37-15-301, MCA, is amended to read:

"37-15-301. License required – exception – rulemaking. (1) A license must be issued to qualified persons either in speech-language pathology or audiology. A person may be licensed in both areas if the person meets the respective qualifications, and in those instances, the license fee must be as though for one license.

(2) A person may not practice or represent to the public that the person is a speech-language pathologist, an audiologist, a speech-language pathology assistant, or an audiology assistant in this state unless the person is licensed in accordance with the provisions of this chapter.

(3) The board may issue a limited license to qualified individuals engaged in supervised professional experience, as defined by board rule.

(4) *The board shall establish by rule the qualifications and permitted activities for speech-language pathology aides and audiology aides who are employed by a school district as defined in 20-6-101. The rules may not require the speech-language pathology aide or audiology aide employed by a school district to be licensed by the board."*

Section 3. Effective date – contingent effective date. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 2] is effective 30 days after the date of the final adoption of rules to implement the provisions of [section 1(4) and (5)] by the board of speech-language pathologists and audiologists.

Section 4. Contingent termination. [Section 1] terminates 30 days after the date of the final adoption of rules to implement the provisions of [sections 1(4) and (5)] by the board of speech-language pathologists and audiologists. The department of labor and industry shall submit certification to the code commissioner within 14 days of the occurrence of the contingency.

Approved May 8, 2025

CHAPTER NO. 525

[HB 752]

AN ACT PROHIBITING CONTENT PROVIDERS FROM ALLOWING ACCESS TO CHILD SEXUAL ABUSE MATERIAL IN MONTANA; PROVIDING A VICTIM THE RIGHT TO BRING AN ACTION; PROVIDING FOR A PRIVATE RIGHT OF ACTION; PROVIDING A STATUTE OF LIMITATIONS; PROVIDING REMEDIES AND APPORTIONMENT OF DAMAGES; PROVIDING DEFINITIONS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 4], unless the context clearly indicates otherwise, the following definitions apply:

(1) “Child sexual abuse material” means child pornography as defined in 18 U.S.C. 2256.

(2) (a) “Content provider” means any person or entity that is responsible, in whole or in part, for the active creation, production, publication, distribution, or storage of content provided through the internet or any other interactive computer service. The term includes but is not limited to a website and social media platform as defined in 42 U.S.C. 1862w(a)(2).

(b) The term does not include a portion of business activity that solely provides:

(i) hosting services to third parties, which includes server hosting, database hosting, application hosting, e-mail hosting, container hosting, data warehouse hosting, or cloud computing providers;

(ii) a general use browser that retrieves and displays information from an interactive computer service without regard for the substance of the information;

(iii) an internet services provider as defined in 2-17-602;

(iv) ownership, maintenance, or operation of physical internet infrastructure, which includes but is not limited to fiber optic lines, routers, satellites, and cell towers; or

(v) a search engine.

(3) “Department” means the department of justice provided for in 2-15-2001.

(4) “Hyperlink” means the representation using numbers, letters, and symbols of an internet address in a form that an internet browser application can recognize as an internet address.

(5) “Interactive computer service” means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the internet and such systems operated or services offered by libraries or educational institutions.

(6) “Private person” means any person other than an officer or employee of a state or local government entity in this state.

(7) “Reasonably accessible” means that a person may obtain access by utilizing reasonably available retail technology services, regardless of the general policies or practices of the content provider or interactive computer service.

(8) “Search engine” means technology and systems that use algorithms to sift through and index as third-party websites and content on the internet in response to search queries entered by a user.

- (9) “Sexually explicit” means involving actual or simulated:
- (a) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;
 - (b) bestiality;
 - (c) masturbation;
 - (d) sadistic or masochistic abuse; or
 - (e) lascivious exhibition of the anus, genitals, or pubic area of any person.
- (10) “Substantial amount” means an amount equal to or greater than 30% of the total visual content created, produced, published, distributed, maintained, or otherwise managed by the content provider.
- (11) “Victim” means a person who is depicted in child sexual abuse material and, at the time the person is depicted in the child sexual abuse material, is a minor.

Section 2. Prohibition on access to child sexual abuse material.

(1) A content provider who produces, publishes, distributes, or maintains a substantial amount of sexually explicit visual content in a manner in which the visual content is reasonably accessible in Montana may not produce, publish, distribute, or maintain child sexual abuse material in a manner in which the material is reasonably accessible in Montana.

(2) A content provider may not collect revenue or make a profit from distributing child sexual abuse material to a person physically located in Montana, regardless of whether the material is produced or created by a third party or regardless of how the revenue is generated.

(3) A content provider who generates 50% or more of the content provider’s income from the production, publication, or distribution of sexually explicit visual content and who has generated at least \$500,000 in income may not produce, publish, distribute, or maintain child sexual abuse material in a manner in which the material is reasonably accessible in Montana.

(4) In an action filed under [section 3] alleging a violation of this section, it is a defense that a content provider removes visual content that contains child sexual abuse material within 96 hours of the visual content being made reasonably accessible in Montana.

(5) In an action filed under [section 3] alleging a violation of this section, it is a defense that the person maintaining an action to seek remedies available under [section 4] caused the alleged violation of this section to occur by uploading or otherwise causing the child sexual abuse material to be produced, published, distributed, or maintained by the content provider.

(6) It is not a violation of this section to produce, publish, distribute, or maintain a hyperlink to a third-party website if the hyperlink does not appear with visual content, regardless of whether the third-party website contains child sexual abuse material.

(7) (a) Nothing in [sections 1 through 4] may be construed to place liability on a content provider for reporting child sexual abuse material to law enforcement.

(b) Reports of child sexual abuse material made to law enforcement by a content provider may not be admitted as evidence in or otherwise used to form the factual basis of an action brought under [section 3].

Section 3. Enforcement – right of victim to bring action – private right of action – statute of limitations. (1) A victim, or the parent or guardian of a victim if the victim is currently under 18 years of age, depicted in child sexual abuse material that is accessed in violation of [section 2] may maintain an action to seek the remedies available under [section 4] as well as restitution for a violation of [section 2].

(2) For any violation of [section 2] not prosecuted by the victim under the authority in subsection (1), a private person may maintain an action to seek the remedies under [section 4]. The private person shall serve a copy of the complaint on a victim who is harmed by the violation alleged in the complaint if the identity of the victim can be reasonably ascertained.

(3) An action under subsection (1) must be brought within 15 years of the violation.

(4) An action under subsection (2) must be brought within 10 years of the violation.

(5) (a) A victim's failure to bring an action under subsection (1) or intervene in an action under subsection (2) does not preclude a victim's ability to bring a tort action for an injury caused by a violation of [section 2], but damages awarded in a tort action for the violation must be reduced by the amount of damages paid to a victim under [section 4].

(b) An action brought under subsection (2) does not preclude a subsequent claim brought by a victim under subsection (1) for restitution, compensatory damages, or 50% of the combined punitive and statutory damages if:

(i) the victim does not intervene in the action brought under subsection (2); and

(ii) no relief is awarded to the victim under [section 4] in the action brought under subsection (2).

(6) A person who meets an exception to the definition of content provider under [section 1(2)(b)] and also engages in activity covered under the same definition may be found to be in violation of this section only to the extent that the person engages in an activity prohibited under this section as a content provider.

(7) For the purposes of this section, each single piece of visual content containing child sexual abuse material constitutes a violation, regardless of whether the visual content is a copy or duplicate.

Section 4. Remedies available – apportionment of damages. (1) A plaintiff who brings an action under [section 3] may seek any of the following:

(a) injunctive relief;

(b) declaratory relief;

(c) compensatory damages;

(d) punitive damages;

(e) statutory damages, which are the following amounts:

(i) \$100,000 for a strict violation of [section 2];

(ii) \$1,000,000 for a violation of [section 2] that is committed negligently or recklessly; or

(iii) \$5,000,000 for a violation of [section 2] that is committed purposely or knowingly; and

(f) reasonable attorney fees and costs incurred in bringing the action.

(2) In addition to the remedies provided in subsection (1), a victim may seek restitution.

(3) For each unique violation under [section 2], a plaintiff's recovery of statutory damages is limited to one subsection under subsection (1)(e)(i) through (1)(e)(iii).

(4) In an action in which the remedies under subsection (1) are ordered:

(a) compensatory damages for each violation must be paid to the victim; and

(b) the amount of punitive and statutory damages must be apportioned for each violation as follows:

(i) in an action brought by a private plaintiff in which a victim is reasonably identified by the court, regardless of the victim's involvement as a plaintiff:

- (A) 50% to a victim, or equally divided among multiple victims;
- (B) 35% to a private plaintiff; and
- (C) 15% to the department to be deposited into a state special revenue account to the credit of the department;
- (ii) in an action brought by a victim in which there is not a nonvictim plaintiff:
 - (A) 80% to a victim, or equally divided among multiple victims; and
 - (B) 20% to the department to be deposited into a state special revenue account to the credit of the department; or
 - (iii) in an action brought by a private plaintiff in which no victim is reasonably identified by the court:
 - (A) 60% to a private plaintiff; and
 - (B) 40% to the department to be deposited into a state special revenue account to the credit of the department.
- (5) If damages are awarded in an action described in subsection (4)(b)(iii), the combined amount of punitive and statutory damages must be reduced by 50% and the remaining amount must be apportioned as described in subsection (4)(b)(iii).

Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as a new part of a new chapter of Title 30, and the provisions of Title 30 apply to [sections 1 through 4].

Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 7. Effective date. [This act] is effective October 1, 2025.

Approved May 8, 2025

CHAPTER NO. 526

[HB 759]

AN ACT GENERALLY REVISING CAMPAIGN FINANCE LAWS; PROVIDING LIMITATIONS THAT ONLY A LIMITED LIABILITY COMPANY THAT IS TAXED AS A SOLE PROPRIETORSHIP OR A PARTNERSHIP, OR A PARTNERSHIP TAXED AS A PARTNERSHIP, MAY MAKE CONTRIBUTIONS TO A CANDIDATE AND THAT THE CONTRIBUTIONS MUST BE REPORTED UNDER THE NAME OF THE MEMBER OR PARTNER MAKING THE CONTRIBUTION; AND CLARIFYING CONTRIBUTION LIMITS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Limitations on limited liability company and partnership contributions to candidates – reporting requirements.

(1) A candidate may only accept a contribution from a limited liability company or partnership if the limited liability company is classified and taxed as a sole proprietorship or a partnership, or the partnership is taxed as a partnership, for federal tax purposes. A candidate may not accept a contribution from a limited liability company or partnership that is taxed as a C. corporation or an S. corporation for federal tax purposes.

(2) A contribution from a limited liability company taxed as a sole proprietorship or partnership, or a partnership taxed as a partnership, for federal tax purposes must be reported under the name of the member or partner making the contribution subject to the disclosure requirements under 13-37-229.

(3) The member or partner reported as making a contribution to a candidate is subject to individual contribution limitations under 13-37-216.

Section 2. Codification instruction. [Section 1] is intended to be codified as a new part of Title 13, chapter 37, and the provisions of Title 13, chapter 37, apply to [section 1].

Approved May 8, 2025

CHAPTER NO. 527

[HB 763]

AN ACT GENERALLY REVISING LAWS RELATED TO THE BLOCK MANAGEMENT PROGRAM; ALLOWING THE FISH AND WILDLIFE COMMISSION TO ADOPT SIMPLIFIED RULES FOR AGREEMENTS THAT ONLY PROVIDE ACCESS TO ADJACENT PUBLIC LANDS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 87-1-265, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-1-265, MCA, is amended to read:

“87-1-265. Hunting access programs – block management program – private landowner assistance – rules – restriction on landowner liability. (1) There is established a block management program administered by the department to provide landowner assistance that encourages public access to private and public lands for hunting purposes.

(2) The department may also develop and administer alternative programs to the block management program that are designed to promote public access to private and public lands for hunting purposes.

(3) Participation in a hunting access program established under this section is voluntary. A lease, acquisition, or other arrangement for public access to or across private property for hunting purposes must be negotiated through a cooperative agreement between the landowner and the department that will guarantee reasonable access for public hunting. Landowners may also form a voluntary association when development of a unified cooperative agreement is advantageous. A cooperative agreement must contain a detailed description of the conditions for use of the private property, including but not limited to:

(a) hunting access management;

(b) services to be provided to the public;

(c) ranch rules and other restrictions; and

(d) any other management information to be gathered, which must be made available to the public.

(4) Private land is not eligible for inclusion in a hunting access program if outfitting, commercial hunting, or fees charged for private hunting access unreasonably restrict public hunting opportunities.

(5) If the department determines that an agreement may adversely influence game management decisions or wildlife habitat on public lands, then other public land agencies, interested sportspersons, and affected landowners must be consulted. An affected landowner’s management goals and personal observations regarding game populations and habitat use must be considered in development of the agreement.

(6) The commission may adopt rules to implement the provisions of this section, including but not limited to rules that determine tangible benefits to be provided to a landowner who participates in a hunting access program. Benefits are intended to offset potential impacts associated with public hunting access, including but not limited to those associated with general ranch maintenance,

conservation efforts, weed control, fire protection, liability insurance, roads, fences, and parking area maintenance. Factors used in determining benefits may include but are not limited to:

(a) the number of days of public hunting provided by a participating landowner;

(b) wildlife habitat provided;

(c) resident game populations;

(d) number, sex, and species of animals taken; and

(e) access provided to adjacent public lands.

(7) For a proposed agreement that only provides access to adjacent public lands for hunting purposes, the department shall:

(a) notify adjacent public land leaseholders;

(b) ensure the proposed agreement does not violate or interfere with the terms of any adjacent public land lease agreement;

(c) incorporate the relevant terms of an adjacent public land lease agreement into the proposed access agreement; and

(d) allow an adjacent public land leaseholder the opportunity to support or object to the proposed access agreement.

(8) In considering a proposed agreement that only provides access to adjacent public lands for hunting purposes, the commission may:

(a) consider an adjacent leaseholder's support for or objection to a proposed access agreement;

(b) exempt the access agreement from tracking the number of days of public hunting access provided by a participating landowner;

(c) agree to a payment to the landowner that is a flat fee rate and not based on the number of days of public hunting access provided by a participating landowner;

(d) use the amount and opportunity provided by public lands access as factors to determine benefits; and

(e) otherwise implement simplified rules.

~~(7)~~(9) (a) Benefits earned by a landowner who participates in a hunting access program may include but are not limited to those applied in the manner described in subsections ~~(7)(b)~~ (9)(b) and ~~(7)(c)~~ (9)(c).

(b) A landowner may receive direct payments:

(i) for weed control or may direct payments to be made directly to the county weed control board;

(ii) for fire protection or may direct fire protection payments to be made to the local fire district or the county where the landowner resides; and

(iii) to offset insurance costs incurred for allowing public hunting access.

(c) The department may provide assistance in the construction and maintenance of roads, gates, and parking facilities and in the signing of property.

~~(8)~~(10) (a) Except as provided in 87-1-264 and subsection ~~(8)(b)~~ (10)(b) of this section, payments to a landowner who participates in a hunting access program through an annual agreement may not exceed \$50,000 a year, and \$25,000 a year for agreements that only provide access to public land for hunting purposes.

(b) Each landowner who participates in a unified cooperative agreement pursuant to subsection (3) may be eligible for payments not to exceed \$50,000 a year, and \$25,000 a year for agreements that only provide access to public land for hunting purposes.

(9)(11) The restriction on liability of a landowner, agent, or tenant that is provided under 70-16-302(1) applies to a landowner who participates in a hunting access program.”

Approved May 8, 2025

CHAPTER NO. 528

[HB 764]

AN ACT REVISING PUBLIC TRANSIT LAWS; PROVIDING THAT A COUNTY COMMISSION MAY INITIATE THE PROCESS TO CREATE OR EXPAND AN URBAN TRANSPORTATION DISTRICT BY RESOLUTION; REQUIRING URBAN TRANSPORTATION DISTRICTS TO SHOW AREAS ADDED TO THE DISTRICT; ALLOWING AN AREA THAT HAS NOT RECEIVED DIRECT TRANSPORTATION SERVICE FOR 5 YEARS TO BE REMOVED WITHOUT BEING SUBJECT TO EXISTING INDEBTEDNESS; PROVIDING THAT A MUNICIPAL BUS SERVICE MAY EXCEED 8 MILES FROM THE LOCAL BOUNDARY UNDER CERTAIN CIRCUMSTANCES; PROVIDING A DEFINITION; AND AMENDING SECTIONS 7-14-202, 7-14-203, 7-14-205, 7-14-206, 7-14-207, 7-14-208, 7-14-209, 7-14-210, 7-14-241, 7-14-4401, 7-14-4402, 7-14-4403, 7-14-4404, AND 7-14-4405, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-14-202, MCA, is amended to read:

“7-14-202. Definitions. As used in this part, the following definitions apply:

(1) “Board” means the board of transportation of any district created under this part.

(2) “Commissioners” means the board of county commissioners or other governing body of a county.

(3) *“Direct transportation service” means the operation of a vehicle that provides general or special service to the public on a regular and continuing basis within 1 1/2 miles of the property.*

(3)(4) “District” means any transportation district created under this part.”

Section 2. Section 7-14-203, MCA, is amended to read:

“7-14-203. Petition Initiating process to create or enlarge an urban transportation district. Proceedings for creating or enlarging a transportation district may be initiated:

(1) *by a resolution passed by the county commission. The resolution must include a map showing the limits of the proposed district or the area to be added to an existing district and call for a public hearing on the creation of the district or the enlargement of the district.*

(2) *by a an elector’s petition signed by not less than 20% of the registered electors who reside within the proposed district or the area to be added to an existing district.”*

Section 3. Section 7-14-205, MCA, is amended to read:

“7-14-205. Petition to be filed with election administrator – certificate. (1) The complete petition must be filed with the election administrator.

(2) The election administrator shall, within 30 days, carefully examine the petition and attach to it a certificate under the administrator’s official signature and seal of office. The certificate must set forth:

(a) the total number of individuals who are registered electors within the proposed transportation district; and

(b) which and how many of the individuals whose names are on ~~the petition~~ *an elector's petition* are qualified to sign the petition.”

Section 4. Section 7-14-206, MCA, is amended to read:

“7-14-206. Effect of insufficient number of signatures. If ~~the~~ *an* elector's petition is found to contain less than 20% of the signatures of the registered electors of the transportation district, the petition ~~shall~~ *must* be declared void.”

Section 5. Section 7-14-207, MCA, is amended to read:

“7-14-207. Presentation of petition to board of county commissioners – hearing required. (1) If ~~the~~ *an* elector's petition contains the signatures of 20% of the qualified electors of the proposed transportation district or the area proposed to be added to an existing district, the county clerk shall present the petition and the county clerk's certificate to the commissioners at their first meeting held after the county clerk has attached the certificate to the petition.

(2) ~~Upon~~ *On* receipt of the petition from the county clerk, the commissioners shall examine the petition and shall by resolution call for a public hearing on the creation of the district or the enlargement of the district.”

Section 6. Section 7-14-208, MCA, is amended to read:

“7-14-208. Notice of hearing. (1) A notice of the public hearing required by 7-14-203(1) or 7-14-207 must be published as provided in 7-1-2121.

(2) The notice must state the time, date, place, and purpose of the hearing and describe the boundaries of the proposed district or addition.”

Section 7. Section 7-14-209, MCA, is amended to read:

“7-14-209. Hearing on petition. (1) At the time fixed for the public hearing required by 7-14-203(1) or 7-14-207, the commissioners shall hear all testimony offered in support of and in opposition to any petition for the creation of the district or addition to a district.

(2) The hearing may be adjourned from time to time for the determination of additional information or hearing petitioners or objectors, but adjournment may not exceed 2 weeks after the date originally noticed and published for the hearing.”

Section 8. Section 7-14-210, MCA, is amended to read:

“7-14-210. Election on question of creating urban transportation district or addition to district. (1) The commissioners, on completion of the public hearing required by 7-14-203(1) or 7-14-207, shall proceed by resolution to refer the creation of the district or an addition to a district to the persons qualified to vote on the proposition.

(2) The election must be held in accordance with Title 13, chapter 1, part 5.”

Section 9. Section 7-14-241, MCA, is amended to read:

“7-14-241. Procedure to be included in district or to remove an addition to or existing property from a district. (1) A real property owner may petition to have that owner's property included in a district. The addition of the real property owner's property must be approved by a majority vote of the transportation board.

(2) An area added to a district pursuant to this part may be removed ~~from the district~~ if the area does not ~~directly receive~~ *receive direct* transportation services from the district and 51% of the qualified voters in the area ~~to be removed~~ sign a petition requesting to be removed from the district. The removal of the area is effective 60 days after submission of the petition to the transportation board unless within that time, it is determined that the petition contains insufficient signatures for removal of the area. An insufficient petition

must be returned to the petitioners, who may resubmit a corrected version within 90 days. *A transportation district shall maintain an inventory or map that clearly delineates areas added to the district.*

(3) A real property owner or owners that are part of the existing district may be removed from the district if the area has not received direct transportation services from the district in the last 5 years and 51% of the qualified voters in the area to be removed sign a petition requesting to be removed from the district. The removal of the area is effective 60 days after submission of the petition to the transportation board unless within that time, it is determined that the petition contains insufficient signatures for removal of the area. An insufficient petition must be returned to the petitioners, who may resubmit a corrected version within 90 days.

~~(3)(4)~~ (a) ~~All~~ Except as provided in subsection (4)(b), all property within any addition to a district is subject to all existing indebtedness of the district.

(b) (i) Property within an area removed from a district is not subject to the district's existing indebtedness if the area was added to the district within 5 years of the date on which the petition for removal was submitted to the transportation board.

(ii) *Property within an area removed from a district is not subject to the district's existing indebtedness if the area has not received direct transportation services within 5 years of the date on which the petition for removal was submitted to the transportation board."*

Section 10. Section 7-14-4401, MCA, is amended to read:

"7-14-4401. Provision of bus service. (1) Whenever a city or town is not being served by a bus company or operator operating on a regular schedule and under the jurisdiction of the public service commission or if ~~such~~ the service is likely to be discontinued in the immediate future, the city or town council of the incorporated city or town:

~~(1)(a)~~ (a) may contract an indebtedness of ~~any such~~ the city or town ~~upon~~ on the credit ~~thereof of the city or town~~ by borrowing money or issuing bonds for the purchase, development, operation, or leasing of motorbuses and buslines for the transportation of passengers within the corporate limits of ~~such~~ the cities and towns and to operate the same to any point or points beyond these limits not to exceed 8 miles measured along the route of the busline; *and*

~~(2)(b)~~ (b) ~~shall~~ must have the power to enter into a contract or contracts or to enter into a lease or a lease and operating agreement with an independent carrier or independent carriers for the transportation of passengers by bus within the corporate limits of ~~such~~ the city or town and to and from any point or points beyond ~~said~~ the limits not to exceed 8 miles measured along the route of ~~said~~ the busline or buslines.

(2) The 8-mile limitation imposed by this section may be exceeded if funded by an external funding source, such as the federal or state government or a nonprofit corporation, or to fulfill an interlocal agreement for bus service."

Section 11. Section 7-14-4402, MCA, is amended to read:

"7-14-4402. Limit on indebtedness to provide bus service. The total amount of indebtedness authorized under ~~7-14-4401(1)~~ 7-14-4401 to be contracted in any form, including existing indebtedness, may not at any time exceed the debt limitation established in 7-7-4201. Money may not be borrowed or bonds issued for the purposes specified in ~~7-14-4401(1)~~ 7-14-4401 until the proposition has been submitted to the vote of the taxpayers of the city or town and a majority vote is cast in its favor."

Section 12. Section 7-14-4403, MCA, is amended to read:

"7-14-4403. Operation of municipal busline. The city or town council or commission has authority to provide for the:

(1) management and operation of the system authorized by ~~7-14-4401(1)~~ *7-14-4401(1)(a)* and to do all things necessary for the successful operation of that transportation system;

(2) safe operation of the transportation system, including the adoption of ordinances or resolutions to require motor vehicles to yield the right-of-way to buses reentering the traffic flow; and

(3) enforcement of ordinances or resolutions adopted under subsection (2).”

Section 13. Section 7-14-4404, MCA, is amended to read:

“7-14-4404. Tax levy for contracts to operate bus service. For the purpose of raising the necessary money to defray the cost of the transportation service authorized by ~~7-14-4401(2)~~ *7-14-4401(1)(b)* pursuant to a contract, lease, or lease and operating agreement with an independent carrier or carriers, the city or town council may annually levy a tax on the taxable value of all taxable property within the limits of the city or town. Whenever the council of the city or town considers it necessary to raise money by taxation for transportation services in excess of the levy allowed by 15-10-420, the council of the city or town shall in the manner prescribed by law submit the question of the additional levy to the qualified electors of the city or town at an election held pursuant to 15-10-425.”

Section 14. Section 7-14-4405, MCA, is amended to read:

“7-14-4405. Bids for bus service contracts authorized – operation of bus service. The city or town council shall have power and authority to call for bids from independent carriers for such transportation service authorized by ~~7-14-4401(2)~~ *7-14-4401(1)(b)* and to do all things necessary or proper for establishment and maintenance of such transportation service by contract, lease, or lease and operating agreement.”

Approved May 8, 2025

CHAPTER NO. 529

[HB 767]

AN ACT REVISING COUNTY PREDATOR CONTROL LAWS TO INCLUDE GOATS; AUTHORIZING COUNTY COMMISSIONERS TO ESTABLISH A PREDATORY ANIMAL CONTROL PROGRAM FOR THE PROTECTION OF GOATS; AUTHORIZING A PER CAPITA LICENSE FEE ON GOATS; REVISING COUNTY PREDATOR CONTROL LAWS TO ALIGN THE AGE THRESHOLD OF PER CAPITA ANNUAL ASSESSMENT OF LIVESTOCK; PROVIDING FOR THE DEPOSIT OF PROCEEDS FROM THE SALE OF PREDATORY ANIMAL SKINS TAKEN; PROVIDING FOR LOCAL GOAT OWNERS TO PETITION FOR AND MAKE RECOMMENDATIONS TO THE PREDATORY ANIMAL CONTROL PROGRAM; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 81-7-303 AND 81-7-603, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 5], the following definitions apply:

(1) “Owners” or “persons” include natural persons, partnerships, corporations, trusts, and estates.

(2) “Predatory animal” has the meaning provided in 81-7-101.

Section 2. County commissioners authorized to establish predatory animal control program for protection of goats. On the recommendation of an organized association of goat producers in the county,

the board of county commissioners may, either alone or in conjunction with the county commissioners of other counties, establish a predatory animal control program for the protection of goats in the county or counties.

Section 3. County commissioners permitted to require per capita license fee on goats. (1) To defray the expense of protection, the board of county commissioners may require all owners or persons in possession of a goat 9 months of age or older in the county on the regular assessment date of each year, as provided in 15-24-903, to pay a per capita license fee in an amount to be determined by the board. All owners or persons in possession of a goat 9 months of age or older coming into the county after the regular assessment date and subject to the per capita levy under the provisions of Title 15, chapter 24, part 9, are subject to payment of the license fee.

(2) On the order of the board of county commissioners, the license fee may be imposed by entering the name of the licensee on the assessment record of the county by the department of revenue. The license fee is payable to and must be collected by the county treasurer. When levied, the fee is a lien on the property, both real and personal, of the licensee. If the person against whom the license fee is levied does not own real estate against which the license fee is or may become a lien, then the license fee is payable immediately on its levy and the treasurer shall collect the fee in the manner provided by law for the collection of personal property taxes that are not a lien on real estate.

(3) The fees must be placed in a predatory animal control fund, separate from the funds provided for in 81-7-303 and 81-7-603. The money in the predatory animal control fund may be expended by the board of county commissioners for predatory animal control, including bounties paid pursuant to Title 81, chapter 7, part 2. Interest earned on money in the fund must be deposited in the fund.

(4) Money from any source may be deposited in the predatory animal control fund provided for in this section to carry out the provisions of [sections 1 through 5].

Section 4. Proceeds of furs and skins taken. All furs, skins, and other portions of predatory animals taken through the expenditure of license fees must be sold and the proceeds of the sale deposited in the predatory animal control fund for use in carrying out the purpose of [sections 1 through 5].

Section 5. Duty of county commissioners – petition of goat owners – license fees. (1) In conducting a predatory animal control program, the board of county commissioners shall give preference to recommendations for a program made by an organized association of goat producers in the county. On petition of the resident owners of at least 51% of the goats in the county, as shown by the property tax record of the last preceding assessment, the board shall establish the predatory animal control program and issue licenses and collect fees for the following year in an amount that will defray the cost of administering the program. The petition must be filed with the board on or before the first Monday in December in any year, and a signature on a petition may not be withdrawn by the signer after the hour set for hearing the petition. The license fee set by the board must remain in effect from year to year without change, unless there is filed with the board a petition signed by the resident owners of at least 51% of the goats in the county, as shown by the property tax record of the last assessment preceding the filing of the petition, for termination of the program and elimination of the license fee. On the filing of the petition, the board shall terminate the program and cease levying the license fee.

(2) If the resident owners of at least 51% of the goats in the county file a petition with the board either for an increase in the license fee or a decrease in the license fee then in effect, the board shall set a new license fee to continue from year to year.

Section 6. Section 81-7-303, MCA, is amended to read:

"81-7-303. County commissioners permitted to require per capita license fee on sheep. (1) To defray the expense of protection, the board of county commissioners of a county may require all owners or persons in possession of a sheep ~~1-year~~ *9 months* of age or older in the county on the regular assessment date of each year, as provided in 15-24-903, to pay a per capita license fee in an amount to be determined by the board. All owners or persons in possession of a sheep ~~1-year~~ *9 months* of age or older coming into the county after the regular assessment date and subject to the per capita levy under the provisions of Title 15, chapter 24, part 9, are subject to payment of the license fee.

(2) ~~Upon~~ *On* the order of the board of county commissioners, the license ~~fees~~ *fee* may be imposed by entering the name of the licensee ~~upon~~ *on* the assessment record of the county by the department of revenue. The license ~~fees are~~ *fee is* payable to and must be collected by the county treasurer. When levied, the ~~fees are~~ *fee is* a lien ~~upon~~ *on* the property, both real and personal, of the licensee. If the person against whom the license fee is levied does not own real estate against which the license fee is or may become a lien, then the license fee is payable immediately ~~upon~~ *on* its levy and the treasurer shall collect the fee in the manner provided by law for the collection of personal property taxes that are not a lien ~~upon~~ *on* real estate.

(3) ~~When collected, the~~ *The* fees must be placed in ~~the~~ *a* predatory animal control fund ~~separate from the funds provided for in 81-7-603 and [section 3]. and the~~ *The money in the predatory animal control fund* may be expended ~~on order of~~ *by* the board of county commissioners ~~of the county~~ for predatory animal control, including bounties paid pursuant to Title 81, chapter 7, part 2. Interest earned on money in the fund must be deposited in the fund.

(4) Money from any source may be deposited in the predatory animal control fund provided for in this section to carry out the provisions of this part."

Section 7. Section 81-7-603, MCA, is amended to read:

"81-7-603. County commissioners permitted to require per capita license fee on cattle. (1) To defray the expense of protection, the board of county commissioners may require all owners or persons in possession of cattle 9 months of age or older in the county on the regular assessment date of each year, as provided in 15-24-903, to pay a per capita license fee in an amount to be determined by the board. All owners or persons in possession of cattle 9 months of age or older coming into the county after the regular assessment date and subject to the per capita levy under the provisions of Title 15, chapter 24, part 9, are subject to payment of the license fee.

(2) ~~Upon~~ *On* the order of the board of county commissioners, the license fee may be imposed by entering the name of the licensee on the assessment record of the county by the department of revenue. The license fee is payable to and must be collected by the county treasurer. When levied, the fee is a lien ~~upon~~ *on* the property, both real and personal, of the licensee. If the person against whom the license fee is levied does not own real estate against which the license fee is or may become a lien, then the license fee is payable immediately ~~upon~~ *on* its levy and the treasurer shall collect the fee in the manner provided by law for the collection of personal property taxes that are not a lien ~~upon~~ *on* real estate.

(3) The fees must be placed in a predatory animal control fund separate from the ~~fund~~ *funds* provided for in 81-7-303 ~~and [section 3]~~. The money in the predatory animal control fund may be expended by the board of county commissioners for predatory animal control, including bounties paid pursuant

to Title 81, chapter 7, part 2. Interest earned on money in the fund must be deposited in the fund.

(4) Money from any source may be deposited in the predatory animal control fund provided for in this section to carry out the provisions of this part.”

Section 8. Codification instruction. [Sections 1 through 5] are intended to be codified as a new part in Title 81, chapter 7, and the provisions of Title 81, chapter 7, apply to [sections 1 through 5].

Approved May 8, 2025

CHAPTER NO. 530

[HB 785]

AN ACT REVISING LAWS RELATED TO CONSIDERATION OF MANUFACTURED HOMES AS IMPROVEMENTS TO REAL PROPERTY; PROVIDING AN ALTERNATE PROCESS TO BE CONSIDERED AS IMPROVEMENTS TO REAL PROPERTY FOR CERTAIN MANUFACTURED HOMES WITH MISSING IDENTIFICATION TAGS; AMENDING SECTION 15-1-116, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-1-116, MCA, is amended to read:

“15-1-116. Manufactured home considered as improvement to real property – requirements. (1) A manufactured home must be considered an improvement to real property for tax purposes if:

(a) the running gear is removed;

(b) the manufactured home is attached to a permanent foundation so that it is no longer capable of being drawn over public highways and it is placed on land that is owned or being purchased by the owner of the manufactured home or, if the land is owned by another person, it is placed on the land with the permission of the landowner; and

(c) a statement of intent declaring the manufactured home as an improvement to real property is recorded with the county clerk and recorder on a form furnished by the department of justice.

(2) (a) To eliminate a manufacturer’s certificate of origin properly assigned to an owner or a certificate of title of a manufactured home, an owner shall record the statement of intent, as provided in subsection (3).

(b) The statement of intent must include:

(i) the serial number of the manufactured home;

(ii) the legal description of the real property to which the manufactured home has been permanently attached;

(iii) a description of any security interests in the manufactured home;

(iv) approval from all lienholders of the intent to eliminate the certificate of origin or certificate of title; and

(v) an acknowledgment of the owner’s signature.

(3) (a) The owner shall record the statement of intent in the office of the county clerk and recorder of the county in which the real property is located, and the owner shall surrender the certificate of origin or certificate of title and a certified copy of the recorded statement of intent to the county treasurer. Within 10 days of receipt of the fee required in 61-3-203, the county treasurer shall:

(i) enter the transfer of interest on the electronic record of title;

(ii) issue the owner a transaction summary receipt; and

(iii) forward a certified copy of the statement of intent, a copy of the receipt for the fee required in 61-3-203, and the surrendered certificate of origin or certificate of title to the department of justice.

(b) The department of justice shall provide the owner with a statement that is in a recordable form, which the owner shall record, that the process of surrendering the certificate of origin or certificate of title has been completed.

(c) The county treasurer may not issue a receipt for the fee referred to in subsection (3)(a) unless all taxes, interest, and penalties on the manufactured home have been paid in full. The county treasurer shall remit the fee to the department for deposit in the state general fund.

(4) Upon the recording of the statement of intent and the statement of title acceptance provided for in subsection (3)(b), the manufactured home may not be physically removed without complying with the provisions of 15-1-118.

(5) If the owner of a manufactured home cannot comply with subsections (1) through (4) due to missing or removed factory installed identification tags on a manufactured home built prior to October 1, 2005, a manufactured home must be considered an improvement to real property if:

(a) the running gear is removed;

(b) the manufactured home is attached to a permanent foundation so that it is no longer capable of being drawn over public highways and it is placed on land that is owned or being purchased by the owner of the manufactured home or, if the land is owned by another person, it is placed on the land with the permission of the landowner; and

(c) a statement of intent declaring the manufactured home as an improvement of real property is recorded with the county clerk and recorder on a form furnished by the department of revenue with documentation from the department of revenue demonstrating that the manufactured home has been taxed as real property for a minimum of 1 year.

~~(5)~~(6) A manufactured home that has been declared an improvement to real property in accordance with this section must be treated by the department and by lending institutions in the same manner as any other residence that is classified as an improvement to real property.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 531

[HB 791]

AN ACT GENERALLY REVISING NUISANCE LAWS; REVISING THE DEFINITION OF PUBLIC NUISANCE; PROVIDING FOR PREEMPTION; REVISING LAWS RELATING TO LIABILITIES FOR PUBLIC NUISANCES; PROVIDING FOR PUBLIC NUISANCE ACTIONS BY THE GOVERNMENT; PROVIDING FOR A PRIVATE CAUSE OF ACTION FOR A PUBLIC NUISANCE; PROVIDING FOR ABATEMENT OF A PUBLIC NUISANCE BY THE GOVERNMENT; PROVIDING FOR PRIVATE NUISANCES, FOR LIABILITIES OF PRIVATE NUISANCES, AND FOR REMEDIES FOR PRIVATE NUISANCES; PROVIDING FOR EMERGENCY ABATEMENT OF PRIVATE NUISANCES BY INJURED PERSONS; AMENDING SECTIONS 27-30-101 AND 27-30-204, MCA; REPEALING SECTIONS 27-30-102,

27-30-103, 27-30-104, 27-30-105, 27-30-201, 27-30-202, 27-30-203, 27-30-301, AND 27-30-302, MCA; AND PROVIDING APPLICABILITY DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 27-30-101, MCA, is amended to read:

“27-30-101. Definition of *public nuisance*. (1) ~~Anything that is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or that unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin or any public park, square, street, or highway is a nuisance.~~

(2) ~~Nothing that is done or maintained under the express authority of a statute may be deemed a public or private nuisance.~~

(1) *A public nuisance is:*

(a) *a condition arising out of the use of real property that unlawfully interferes with a public right by endangering communal safety, being indecent to the community, or being offensive to the community; or*

(b) *a condition that unlawfully interferes with the public right to free passage or use, in the customary manner, of a navigable lake, river, bay, stream, canal, or basin or a public park, square, street, road, or highway.*

(2) *The following nonexclusive list of actions or conditions may not be considered a public nuisance or be the basis for a public nuisance cause of action:*

(a) *an action or condition that is lawful;*

(b) *an action or condition that is authorized, approved, licensed, or mandated by statute, ordinance, regulation, permit, license, order, rule, or other similar measure issued, adopted, promulgated, or approved by a government entity. This includes conditions or actions that are subject to an order, notice, or decree issued under 75-10-711 or 75-10-712.*

(c) *noises resulting from the shooting activities at a shooting range during established hours of operation;*

(d) *impairment of the spiritual, cultural, or emotional significance associated with a navigable lake, river, bay, stream, canal, or basin or a public park, square, street, road, or highway;*

(e) *the design, manufacturing, distributing, selling, labeling, or marketing of a product;*

(f) *the aggregation of individual injuries or private rights, including private nuisances; or*

(g) *the design, manufacturing, distributing, selling, labeling, or marketing of firearms, firearm accessories, or ammunition, as defined in 30-20-301, or components of firearms, firearm accessories, or ammunition.*

(3) *An agricultural or farming operation, a place, an establishment, or a facility or any of its appurtenances or the operation of those things is not or does not become a public or private nuisance because of its normal operation as a result of changed residential or commercial conditions in or around its locality if the agricultural or farming operation, place, establishment, or facility has been in operation longer than the complaining resident has been in possession or commercial establishment has been in operation.*

(4) *As used in this chapter, the term “unlawfully interferes” includes but is not limited to actions or conditions that violate a statute, ordinance, regulation, permit, license, order, rule, or other similar measure issued, adopted, promulgated, or approved by a government entity. This includes any statute, ordinance, regulation, permit, license, order, rule, or other similar measure*

issued, adopted, promulgated, or approved by a government entity either before or after [the effective date of this act].

~~(4) Noises resulting from the shooting activities at a shooting range during established hours of operation are not considered a public nuisance.”~~

Section 2. Definition of private nuisance. (1) A private nuisance is a condition arising out of the use of real property that:

(a) is injurious to health or safety, indecent or offensive to the senses of an individual on an adjacent or neighboring property, or

(b) obstructs the free use of an adjacent or neighboring property so as to interfere with the comfortable enjoyment of life or property.

(2) The following may not be considered a private nuisance or be the basis for a private nuisance cause of action:

(a) an action or condition that is authorized, approved, licensed, or mandated by statute, ordinance, regulation, permit, license, order, rule, or other similar measure issued, adopted, promulgated, or approved by a government entity. This includes conditions or actions that are subject to an order, notice, or decree issued under 75-10-711 or 75-10-712; or

(b) noises resulting from the shooting activities on a shooting range during established hours of operation.

(3) An agricultural or farming operation, a place, an establishment, or a facility or any of its appurtenances or the operation of those things is not or does not become a private nuisance because of its normal operation as a result of changed residential or commercial conditions in or around its locality if the agricultural or farming operation, place, establishment, or facility has been in operation longer than the complaining resident has been in possession or commercial establishment has been in operation.

Section 3. Preemption. This chapter abrogates the common law of public nuisance and private nuisance in this state to the extent common law is inconsistent with this chapter.

Section 4. Liability for a public nuisance. (1) A person may be subject to a public nuisance cause of action only if that person proximately caused the public nuisance at the time the public nuisance was created, which includes controlling, or instructing another person to engage in, the activity that proximately caused the public nuisance.

(2) Every successive owner of property who neglects to abate a continuing public nuisance upon or in the use of the property that was created by a former owner is liable for the public nuisance in the same manner as the one who first created it.

(3) No lapse of time can legalize a public nuisance amounting to an actual obstruction of public right.

Section 5. Public nuisance actions by government. (1) A public nuisance cause of action is available to a government entity only if the public nuisance is within the jurisdiction of that government entity. Past, current, or future expenditures made by a government entity related to injunction of or any other response to a public nuisance does not itself confer standing to file or maintain a public nuisance action.

(2) In a public nuisance action brought by a government entity, the only remedies against a public nuisance are:

(a) indictment or information as regulated by Titles 45 and 46;

(b) injunctive relief to enjoin an unlawful activity that is proximately causing a public nuisance; and

(c) monetary and nonmonetary resources, if quantifiable, that a court determines are reasonably necessary to abate the public nuisance based on relevant and reliable cost factors and established by clear and convincing

evidence. All resources provided under this subsection (2) must be spent to abate the public nuisance itself.

(3) Remedies available under this section may not include:

(a) the costs of abating a potential future public nuisance; or

(b) damages of any kind, including economic, noneconomic, and exemplary damages.

(4) For the purposes of this chapter, the term “government entity” means the state, an agency or a political subdivision of the state, a federal entity or agency, or any other governing authority, including a tribal government.

(5) Nothing in this chapter limits the authority of a government entity to order any person to vacate the right-of-way of a public highway of this state classified within the commission-designated highway system or as a state highway, as provided in 60-1-201, or any navigable lake, river, bay, stream, canal, or basin or a public park, square, street, road, or highway.

Section 6. Private cause of action for public nuisance. (1) A public nuisance cause of action is available to a private person only if that person has sustained a special injury proximately caused by the public nuisance and only if the person can show the existence of the special injury by clear and convincing evidence.

(2) A special injury is an injury that is different in kind, not just in degree, from an injury sustained by the general public exercising the same public right. A special injury is not one based upon impairment of the spiritual, cultural, or emotional significance associated with a navigable lake, river, bay, stream, canal, or basin or a public park, square, street, road, or highway.

(3) Financial expenditures made by a private person related to an injunction of, or any other response to, a public nuisance does not constitute a special injury sufficient to confer standing on the person to file or maintain a public nuisance action.

(4) The remedy available to a private person in a public nuisance action is limited solely to compensatory damages for the special injury.

(5) The abatement of a public nuisance pursuant to 27-30-204 does not preclude the right of a person to recover compensatory damages under this section.

(6) Private persons may not bring a class action for special injuries arising out of a public nuisance.

Section 7. Section 27-30-204, MCA, is amended to read:

“27-30-204. Abatement of public nuisance by ~~public—body~~ government entity or officer or injured party. A public nuisance may be abated by ~~any public body~~ *a government entity* or officer authorized by law. A person may abate a public nuisance that is specially injurious to that person by removing or, if necessary, destroying the thing that constitutes the nuisance, *as long as doing so would not constitute without committing a breach of the peace or cause doing unnecessary injury. Nothing in this section alters the remedies to a government entity or private person in a public nuisance cause of action.*”

Section 8. Action for private nuisance. An action for private nuisance may be brought by a person whose property is injuriously affected or whose personal enjoyment of property is lessened by the private nuisance.

Section 9. Liability for private nuisance. (1) A person may be subject to a private nuisance cause of action only if that person, or the person’s agent, proximately caused the private nuisance or, if that person is not available for a private nuisance lawsuit or cannot satisfy a private nuisance judgment, the person who owns or controls the real property where the private nuisance exists.

(2) Every successive owner or controller of real property who neglects to abate a continuing private nuisance upon or in the use of the property that was created under previous ownership is liable for the private nuisance in the same manner as the one who owned or controlled the real property when the private nuisance was created.

Section 10. Remedies for private nuisances. The remedies against a private nuisance are:

(1) injunctive relief to enjoin an activity proximately causing the private nuisance;

(2) monetary and nonmonetary resources, if quantifiable, that a court determines are reasonably necessary to abate the private nuisance based on relevant and reliable cost factors and established by clear and convincing evidence. All resources provided under this subsection must be spent to abate the private nuisance itself.

(3) damages proximately caused by the private nuisance.

Section 11. Emergency abatement of private nuisance by injured party. A person injured by a private nuisance may abate it by removing or, if necessary, destroying the thing that constitutes the private nuisance so long as doing so would not constitute committing a breach of the peace or cause unnecessary injury. When a private nuisance results from a mere omission of the wrongdoer and cannot be abated without entering upon the wrongdoer's land, reasonable notice must be given to the wrongdoer before entering to abate the private nuisance. Nothing in this section alters the remedies available in a private nuisance cause of action.

Section 12. Repealer. The following sections of the Montana Code Annotated are repealed:

27-30-102. Distinction between public and private nuisances.

27-30-103. Action for nuisance.

27-30-104. Right to recover damages unaffected by abatement.

27-30-105. Successive owners liable for nuisance.

27-30-201. Public nuisance not legalized by time.

27-30-202. Remedies for public nuisances.

27-30-203. When private person may maintain action for public nuisance.

27-30-301. Remedies for private nuisances.

27-30-302. Abatement of private nuisance by injured party.

Section 13. Codification instruction. (1) [Sections 2 and 3] are intended to be codified as an integral part of Title 27, chapter 30, part 1, and the provisions of Title 27, chapter 30, part 1, apply to [sections 2 and 3].

(2) [Sections 4 through 6] are intended to be codified as an integral part of Title 27, chapter 30, part 2, and the provisions of Title 27, chapter 30, part 2, apply to [sections 4 through 6].

(3) [Sections 8 through 11] are intended to be codified as an integral part of Title 27, chapter 30, part 3, and the provisions of Title 27, chapter 30, part 3, apply to [sections 8 through 11].

Section 14. Applicability – nonapplicability. (1) [This act] applies to a cause of action that accrues on or after October 1, 2025. A cause of action that accrued prior to October 1, 2025, is governed by the law applicable immediately before October 1, 2025, and that law is continued in effect for that purpose;

(2) Nothing in [this act] applies to an action filed by the Montana department of justice within 4 years from October 1, 2025, relating to the design, manufacturing, distributing, selling, labeling, or marketing of opioids. With the consent of the attorney general, other government entities may join an action filed by the Montana department of justice.

Approved May 8, 2025

CHAPTER NO. 532

[HB 792]

AN ACT GENERALLY REVISING LAWS RELATED TO MARIJUANA LABELING AND EDUCATION; REQUIRING WARNING POSTERS AT POINTS OF MARIJUANA SALE; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 16-12-112 AND 16-12-215, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 16-12-112, MCA, is amended to read:

“16-12-112. Rulemaking authority – fees. (1) The department may adopt rules to implement and administer this chapter, including:

(a) the manner in which the department will consider applications for licenses, permits, and endorsements and renewal of licenses, permits, and endorsements;

(b) the acceptable forms of proof of Montana residency;

(c) the procedures for obtaining fingerprints for the fingerprint-based and name-based background checks required under 16-12-129;

(d) the security and operating requirements for licensees;

(e) the security and operating requirements for manufacturing, including but not limited to requirements for:

(i) safety equipment;

(ii) extraction methods, including solvent-based and solvent-free extraction; and

(iii) post-processing procedures;

(f) notice and contested case hearing procedures for fines or license and endorsement revocations, suspensions, or modifications;

(g) implementation of a system to allow the tracking of marijuana and marijuana products as required by 16-12-105;

(h) labeling and packaging standards that protect public health by requiring the listing of pharmacologically active ingredients, including but not limited to THC, cannabidiol (CBD) and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, the number of servings per package, and quantity limits per sale to comply with the allowable possession amount;

(i) investigating and making rules to limit, if necessary, the appropriate THC potency percentages for marijuana and marijuana products;

(j) requirements that packaging and labels may not be made to be attractive to children, that they have required warning labels as set forth in 16-12-215, and that marijuana and marijuana products be sold in resealable, child-resistant exit packaging to protect public health as provided in 16-12-208;

(k) requirements for the warning posters that must be displayed at any point of sale pursuant to 16-12-215;

(l) recommended resources to provide assistance with overcoming marijuana addiction pursuant to 16-12-215.

~~(k)~~(m) requirements and standards for the testing and retesting of marijuana and marijuana products, including testing of samples collected during the department's inspections of licensed premises;

~~(l)~~(n) the amount of variance allowable in the results of raw testing data that would warrant a departmental investigation of inconsistent results as provided in 16-12-202;

~~(m)~~(o) requirements and standards to prohibit or limit marijuana, marijuana products, and marijuana accessories that are unsafe or contaminated;

(n)(p) the activities that constitute advertising in violation of 16-12-211 and requirements and standards for electronic advertising as permitted under 16-12-211;

(o)(q) requirements and incentives to promote renewable energy, reduce water usage, and reduce packaging waste to maintain a clean and healthy environment in Montana;

(p)(r) procedures for collecting and destroying samples of marijuana and marijuana products that fail to meet testing requirements pursuant to 16-12-209; and

(q)(s) the fees for testing laboratories, the fingerprint-based and name-based background checks required under 16-12-129, employee certification, the marijuana transporter license, marijuana worker permits, and other fees necessary to administer and enforce the provisions of this chapter. The fees established by the department, taxes collected pursuant to Title 15, chapter 64, part 1, civil penalties imposed pursuant to this chapter, and the licensing fees established by rule and in part 2 of this chapter must be sufficient to offset the expenses of administering this chapter but may not exceed the amount necessary to cover the costs to the department of implementing and enforcing this chapter.

(2) The department may not adopt any rule or regulation that is unduly burdensome or undermines the purposes of this chapter.

(3) The department may consult or contract with other public agencies in carrying out its duties under this chapter."

Section 2. Section 16-12-215, MCA, is amended to read:

"16-12-215. Required warning labels and posters. (1) A person may not manufacture, package, sell, or transfer any marijuana or marijuana product unless the package containing the marijuana or marijuana product bears the following statements in a form required by the department a warning label. *The text of the warning label must be displayed in a legible font, such as times new roman, arial, or helvetica, and the lowercase letter "o" must be at least one-sixteenth of an inch in height. The statement must be placed next to the universal warning symbol for marijuana and must read:*

(1)(a) "WARNING: Consumption of marijuana may cause anxiety, agitation, paranoia, psychosis, and cannabinoid hyperemesis excessive vomiting."

(2)(b) "WARNING: Consumption of marijuana by pregnant women may result in fetal injury and low birth weight."

(3)(c) "WARNING: Consumption of marijuana by nursing mothers may result in infant hyperactivity and poor cognitive function."

(d) "WARNING: Driving while under the influence of marijuana is a crime."

(2) *Each warning statement must be printed on all forms of marijuana exit packaging.*

(3) *A marijuana business shall display at any point of sale a consumer education poster that includes all text warnings pursuant to this section.*

(4) *Each poster must:*

(a) *be at least 8 1/2 inches by 11 inches in size;*

(b) *include the universal warning symbol for marijuana;*

(c) *include the text warnings pursuant to this section; and*

(d) *provide a website address, phone number, and quick reference code for a resource that provides assistance with overcoming marijuana addiction.*

(5) *Each exit package must include a quick reference code for a resource that provides consumer education assistance with overcoming marijuana addiction."*

Section 3. Effective date. [This act] is effective July 1, 2026.

Approved May 8, 2025

CHAPTER NO. 533

[HB 793]

AN ACT REVISING THE MEMBERSHIP OF THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL; AMENDING SECTION 44-4-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 44-4-402, MCA, is amended to read:

“44-4-402. Membership – composition. (1) The council consists of no more than 13 voting members appointed by the governor in accordance with 2-15-124 and as provided in this section.

(2) Membership must include:

- (a) one state government law enforcement representative;
- (b) one chief of police, who may be appointed based on recommendations from the Montana association of chiefs of police;
- (c) one sheriff, who may be appointed based on recommendations from the Montana sheriffs and peace officers association;
- (d) one representative from the department of corrections established in 2-15-2301;
- (e) one local law enforcement officer in a nonadministrative position, who may be appointed based on recommendations from the Montana police protective association;
- (f) one detention center administrator or detention officer;
- (g) one Montana-certified tribal law enforcement representative;
- (h) one county attorney, who may be appointed based on recommendations from the Montana county attorneys association;
- (i) ~~two members~~ *one member* of the board of crime control established in 2-15-2008;
- (j) *one public safety communications officer as defined in 7-31-201 who may be appointed based on recommendations from the Montana chapter of the association of public-safety communications officials;*
- (~~j~~)*(k)* one misdemeanor probation officer, as defined in 46-23-1001, who is certified by the Montana public safety officer standards and training council and who may be appointed based on recommendations from an association representing misdemeanor probation officers; and
- (~~k~~)*(l)* two Montana citizens ~~at large~~ who are informed and experienced in the subject of law enforcement.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 534

[HB 796]

AN ACT REVISING LAWS RELATED TO COMPULSORY HEALTH CARE SHARING OF RECORDS; CLARIFYING THAT A PROFESSIONAL LICENSING BOARD OR PROGRAM MAY REQUEST HEALTH CARE INFORMATION PURSUANT TO AN ADMINISTRATIVE SUBPOENA FOR INVESTIGATIVE AND DISCIPLINARY PURPOSES; AND AMENDING SECTIONS 50-16-535 AND 50-16-811, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-16-535, MCA, is amended to read:

“50-16-535. When health care information available by compulsory process. (1) Health care information may not be disclosed by a health care provider pursuant to compulsory legal process or discovery in any judicial, legislative, or administrative proceeding unless:

(a) the patient has authorized in writing the release of the health care information in response to compulsory process or a discovery request;

(b) the patient has waived the right to claim confidentiality for the health care information sought;

(c) the patient is a party to the proceeding and has placed the patient’s physical or mental condition in issue;

(d) the patient’s physical or mental condition is relevant to the execution or witnessing of a will or other document;

(e) the physical or mental condition of a deceased patient is placed in issue by any person claiming or defending through or as a beneficiary of the patient;

(f) a patient’s health care information is to be used in the patient’s commitment proceeding;

(g) the health care information is for use in any law enforcement proceeding or investigation in which a health care provider is the subject or a party, except that health care information so obtained may not be used in any proceeding against the patient unless the matter relates to payment for the patient’s health care or unless authorized under subsection (1)(j);

(h) the health care information is relevant to a proceeding brought under 50-16-551 through 50-16-553;

(i) the health care information is relevant to a proceeding brought under Title 41, chapter 3;

(j) a court has determined that particular health care information is subject to compulsory legal process or discovery because the party seeking the information has demonstrated that there is a compelling state interest that outweighs the patient’s privacy interest; **or**

(k) the health care information is requested pursuant to an investigative subpoena issued under 46-4-301 or a similar federal law; **or**

(l) the health care information is requested pursuant to an administrative subpoena as required in investigative and disciplinary proceedings before a professional or occupational licensing board as defined in 37-1-302 or license program as defined in 37-1-401.

(2) This part does not authorize the disclosure of health care information by compulsory legal process or discovery in any judicial, legislative, or administrative proceeding in which disclosure is otherwise prohibited by law.”

Section 2. Section 50-16-811, MCA, is amended to read:

“50-16-811. When health care information available by compulsory process. (1) Health care information may not be disclosed by a health care provider pursuant to compulsory legal process or discovery in any judicial, legislative, or administrative proceeding unless:

(a) the patient has authorized in writing the release of the health care information in response to compulsory process or a discovery request;

(b) the patient has waived the right to claim confidentiality for the health care information sought;

(c) the patient is a party to the proceeding and has placed the patient’s physical or mental condition in issue;

(d) the patient’s physical or mental condition is relevant to the execution or witnessing of a will or other document;

(e) the physical or mental condition of a deceased patient is placed in issue by any person claiming or defending through or as a beneficiary of the patient;

(f) a patient's health care information is to be used in the patient's commitment proceeding;

(g) the health care information is for use in any law enforcement proceeding or investigation in which a health care provider is the subject or a party, except that health care information so obtained may not be used in any proceeding against the patient unless the matter relates to payment for the patient's health care or unless authorized under subsection (1)(i);

(h) a court has determined that particular health care information is subject to compulsory legal process or discovery because the party seeking the information has demonstrated that there is a compelling state interest that outweighs the patient's privacy interest;

(i) the health care information is requested pursuant to an investigative subpoena issued under 46-4-301 or similar federal law; ~~or~~

(j) the health care information is requested pursuant to an administrative subpoena as required in investigative and disciplinary proceedings before a professional or occupational licensing board as defined in 37-1-302 or license program as defined in 37-1-401; or

~~(j)~~*(k)* the patient is deceased and the coroner requires the health care information for the investigation of the death as provided in Title 46, chapter 4, part 1.

(2) This part does not authorize the disclosure of health care information by compulsory legal process or discovery in any judicial, legislative, or administrative proceeding where disclosure is otherwise prohibited by law."

Approved May 8, 2025

CHAPTER NO. 535

[HB 804]

AN ACT REVISING LAWS RELATED TO LOBBYING; INCREASING THE PAYMENT THRESHOLD TO \$3,000 FOR LOBBYISTS; REVISING WHEN AND HOW THE COMMISSIONER ADJUSTS THE PAYMENT THRESHOLD FOR LOBBYISTS TO ACCOUNT FOR INFLATION; REQUIRING ELECTRONIC REPORTS; PROVIDING THAT A PRINCIPAL IS REQUIRED TO FILE A REPORT BASED ON THE PAYMENT THRESHOLD PROVIDED IN 5-7-112; AND AMENDING SECTIONS 5-7-112 AND 5-7-208, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-7-112, MCA, is amended to read:

"5-7-112. Payment threshold – inflation adjustment. For calendar year ~~2004~~ **2025**, the payment threshold referred to in 5-7-102(12)(b)(iii), 5-7-103, and 5-7-208 is ~~\$2,150~~ **\$3,000**. The commissioner shall adjust the threshold amount ~~following a general election each even-numbered year~~ by multiplying the threshold amount valid for the ~~even year in which the general election was held~~ by an inflation factor, ~~adopted by the commissioner by rule. The rule must be written to reflect the annual average change in the consumer price index from the prior year to the year in which the general election is held. The inflation factor is determined by dividing the consumer price index for June of the even-numbered year by the consumer price index for June of the prior year. The resulting figure must be rounded up or down to the nearest \$50 increment. The commissioner shall adopt the adjusted amount by rule, effective on January 1 of the following odd year."~~

Section 2. Section 5-7-208, MCA, is amended to read:

“5-7-208. Principals to file report. (1) A principal subject to this chapter shall file with the commissioner ~~a report~~ *electronic reports* of payments made for the purpose of lobbying. A principal is subject to the reporting requirements of this section only if the principal makes total payments for the purpose of lobbying that exceed the amount specified under 5-7-112 during a calendar year.

(2) If payments are made solely to influence legislative action, a report must be made:

(a) by February 15th of any year the legislature is in session and must include all payments made in that calendar year prior to February 1;

(b) by the 15th day of the calendar month following a calendar month in which the principal spent ~~\$5,000~~ *the amount specified under 5-7-112* or more and must include all payments made during the prior calendar month; and

(c) no later than 30 days following adjournment of a legislative session and must include all payments made during the session, except as previously reported.

(3) If payments are made to influence any other official action by a legislator or made to influence other action and legislative action, a report must be made:

(a) by February 15th of the calendar year following the payments and must include all payments made during the prior calendar year; and

(b) by the 15th day of the calendar month following a calendar month in which the principal spent ~~\$5,000~~ *the amount specified under 5-7-112* or more and must include all payments made during the prior calendar month.

(4) If payments are not made during the reporting periods provided in subsections (2)(a), (2)(c), and (3)(a), the principal shall file a report stating that fact.

(5) Each report filed under this section must:

(a) list all payments for lobbying in each of the following categories:

(i) printing;

(ii) advertising, including production costs;

(iii) postage;

(iv) travel expenses;

(v) salaries and fees, including allowances, rewards, and contingency fees;

(vi) entertainment, including all foods and refreshments;

(vii) voice or any electronic communication; and

(viii) other office expenses;

(b) itemize, identifying the payee and the beneficiary:

(i) each separate payment conferring \$25 or more benefit to any legislator when the payment was made for the purpose of lobbying; and

(ii) each separate payment conferring \$100 or more benefit to more than one legislator, regardless of individual benefit when the payment was made for the purpose of lobbying, except that in regard to a dinner or other function to which all senators or all representatives have been invited, the beneficiary may be listed as all members of that group without listing separately each legislator who attended;

(c) list each contribution and membership fee that amounts to \$250 or more when aggregated over the period of 1 calendar year paid to the principal for the purpose of lobbying, with the full address of each payer and the issue area, if any, for which the payment was earmarked;

(d) list each official action on which the principal or the principal's agents exerted a major effort to support, oppose, or modify, together with a statement of the principal's position for or against the action; and

(e) be kept by the commissioner for a period of 4 years.”

Approved May 8, 2025

CHAPTER NO. 536

[HB 806]

AN ACT GENERALLY REVISING LAWS RELATED TO DIETITIANS AND NUTRITIONISTS; REVISING THE BOARD OF MEDICAL EXAMINERS; PROVIDING DEFINITIONS; PROVIDING LICENSURE REQUIREMENTS; REQUIRING CRIMINAL BACKGROUND CHECKS FOR LICENSURE OF DIETITIANS AND NUTRITIONISTS; PROVIDING EXEMPTIONS; PROVIDING FOR PERMITS; AMENDING SECTIONS 2-15-1731, 20-4-502, 20-9-327, 37-25-101, 37-25-102, 37-25-201, 37-25-303, 37-25-304, AND 37-25-305, MCA; AND REPEALING SECTIONS 37-25-301 AND 37-25-302, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-1731, MCA, is amended to read:

“2-15-1731. Board of medical examiners. (1) In accordance with 37-1-123, there is a Montana state board of medical examiners.

(2) The board consists of 12 members:

(a) five doctors of medicine, including one with experience in emergency medicine, none of whom may be from the same county;

(b) one doctor of osteopathy;

(c) one podiatrist;

(d) one ~~nutritionist~~ dietitian;

(e) one physician assistant;

(f) one emergency care provider, as defined in 50-6-202, who may be a volunteer emergency care provider; and

(g) two public members.

(3) The board is allocated to the department as prescribed in 2-15-121.”

Section 2. Section 20-4-502, MCA, is amended to read:

“20-4-502. Definitions. For purposes of this part, unless the context requires otherwise, the following definitions apply:

(1) “Education cooperative” means a cooperative of Montana public schools as described in 20-7-451.

(2) “Educational loans” means all loans made pursuant to a federal loan program, except federal parent loans for undergraduate students (PLUS) loans, as provided in 20 U.S.C. 1078-2.

(3) “Federal loan program” means educational loans authorized by 20 U.S.C. 1071, et seq., 20 U.S.C. 1087a, et seq., and 20 U.S.C. 1087aa, et seq.

(4) “Impacted school” means:

(a) a special education cooperative;

(b) the Montana school for the deaf and blind, as described in 20-8-101;

(c) the Montana youth challenge program, as established in 10-1-1401;

(d) a correctional facility, as defined in 41-5-103;

(e) a public school located on an Indian reservation; and

(f) a public school that, driving at a reasonable speed for the road surface, is located more than 20 minutes from a Montana city with a population greater than 15,000 based on the most recent federal decennial census.

(5) (a) “Quality educator” means a full-time equivalent educator, as reported to the superintendent of public instruction for accreditation purposes in the current school year, who:

(i) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (5)(b) in a position that requires an educator license in accordance with administrative rules adopted by the board of public education; or

(ii) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-24-301, ~~37-25-302~~ [section 7], 37-39-308, 37-39-309, or 37-39-311 and is employed by an entity listed in subsection (5)(b) to provide services to students.

(b) For purposes of subsection (5)(a), an entity means:

(i) a school district;

(ii) an education cooperative;

(iii) the Montana school for the deaf and blind, as described in 20-8-101;

(iv) the Montana youth challenge program; and

(v) a correctional facility, as defined in 41-5-103.

(6) "School district" means a public school district, as provided in 20-6-101 and 20-6-701."

Section 3. Section 20-9-327, MCA, is amended to read:

"20-9-327. Quality educator payment. (1) (a) The state shall provide a quality educator payment to:

(i) public school districts, as defined in 20-6-101 and 20-6-701;

(ii) special education cooperatives, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101;

(iv) correctional facilities, as defined in 41-5-103; and

(v) the Montana youth challenge program.

(b) A special education cooperative that has not met the requirements of 20-7-454 may not be funded under the provisions of this section except by approval of the superintendent of public instruction.

(2) (a) The quality educator payment for special education cooperatives must be distributed directly to those entities by the superintendent of public instruction.

(b) The quality educator payment for the Montana school for the deaf and blind must be distributed to the Montana school for the deaf and blind.

(c) The quality educator payment for Pine Hills correctional facility and the facility under contract with the department of corrections for female, as defined in 1-1-201, youth must be distributed to those facilities by the department of corrections.

(d) The quality educator payment for the Montana youth challenge program must be distributed to that program by the department of military affairs.

(3) The quality educator payment is calculated as provided in 20-9-306, using the number of full-time equivalent educators, as reported to the superintendent of public instruction for accreditation purposes in the previous school year, each of whom:

(a) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (1) of this section in a position that requires an educator license in accordance with the administrative rules adopted by the board of public education;

(b) (i) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-24-301, ~~37-25-302~~ [section 7], 37-39-308, 37-39-309, or 37-39-311; and

(ii) is employed by an entity listed in subsection (1) to provide services to students; or

(c) (i) holds an American Indian language and culture specialist license; and

(ii) is employed by an entity listed in subsection (1) to provide services to students in an Indian language immersion program pursuant to Title 20, chapter 7, part 14.”

Section 4. Section 37-25-101, MCA, is amended to read:

“37-25-101. Legislative finding and purpose. The legislature finds and declares that the practice of *medical nutrition assessment and counseling therapy* affects the public health, safety, and welfare. It is the purpose of this chapter to provide for the licensing and regulation of *dietitians and nutritionists* in order to protect the public health, safety, and welfare, to ensure that *dietetics and* nutritional services of high quality are available to the people of Montana, and to provide a means of identifying those qualified to practice *dietetics and* nutrition.”

Section 5. Section 37-25-102, MCA, is amended to read:

“37-25-102. Definitions. In this chapter, unless the context requires otherwise, the following definitions apply:

(1) “Accredited” means accredited through the council on postsecondary accreditation and the U.S. department of education.

(2)(2) “Board” means the board of medical examiners *provided for in 2-15-1731.*

(3)(3) “Commission” means the commission on dietetic registration, which is a member of the national commission for health certifying agencies.

(4) “Dietetic-nutrition practice” or “dietetics-nutrition” ~~is the integration and application of principles derived from the sciences of nutrition, biochemistry, physiology, and food management and from the behavioral and social sciences to achieve and maintain health. The primary function of dietetic-nutrition practice is to provide nutrition assessment and nutrition counseling.~~

(5)(4) “General nutritional information” means information on:

(a) principles of good nutrition;

(b) foods to be included in a daily diet;

(c) the essential nutrients needed by the body;

(d) recommended amounts of these nutrients;

(e) the action of these nutrients on the body;

(f) the effects of deficiencies in these nutrients; or

(g) foods and supplements that are good sources of essential nutrients.

(5) “Licensed dietitian” means a person licensed under this chapter to engage in the practice of dietetics and the practice of nutrition, including the provision of medical nutrition therapy.

(6)(6) “Licensed nutritionist” means a nutritionist licensed under this chapter to engage in the practice of nutrition, including the provision of medical nutrition therapy.

(7) “Medical nutrition therapy” means the provision of any of the following nutrition care services for the purpose of management or treatment of a disease or medical condition:

(a) nutrition assessment;

(b) nutrition diagnosis;

(c) nutrition intervention; and

(d) nutrition monitoring and evaluation.

(8) “Medical weight control” means medical nutrition therapy provided for the purpose of reducing, maintaining, or gaining weight.

(9) “Nonmedical weight control” means nutrition care services for the purpose of reducing, maintaining, or gaining weight that do not constitute the treatment or management of a disease or medical condition. The term includes weight control services for healthy population groups to achieve or maintain a healthy weight.

(7) “Nutrition assessment” means the evaluation of nutritional needs of individuals and groups based on appropriate biochemical, anthropometric, physical, and dietary data in order to determine nutrient needs and to recommend appropriate nutritional intake, including both enteral and parenteral nutrition.

(8)(10) “Nutrition counseling” means providing assistance and advice to individuals or groups in the selection of food and other sources of nutrients to achieve appropriate nutritional intake, based on:

(a) the nutrition assessment;

(b) the composition of food and other sources of nutrients; and

(c) meal preparation consistent with cultural background and socioeconomic status: a supportive process, characterized by a collaborative counselor-patient relationship with individuals or groups, to establish food and nutrition priorities, goals, and individualized action plans and general physical activity guidance that acknowledge and foster responsibility for self-care to promote health and wellness or to treat or manage an existing disease or medical condition.

(11) (a) “Nutrition diagnosis” means identifying and labeling nutrition problems managed and treated by a licensed dietitian.

(b) The term does not include a medical diagnosis of the health status of an individual.

(9) “Nutritionist” means:

(a) a person licensed under this chapter; or

(b) a person who has satisfactorily completed a baccalaureate and master’s or a doctoral degree in the field of dietetics, food and nutrition, or public health nutrition conferred by an accredited college or university.²

(12) “Practice of dietetics” means the integration and application of scientific principles derived from the study of food, nutrition, biochemistry, metabolism, nutrigenomics, physiology, pharmacology, food systems, management, and behavioral and social sciences to achieve and maintain optimal nutrition status of individuals and groups. The term includes the provision of nutrition care services, including medical nutrition therapy, to prevent, manage, or treat chronic and acute diseases or medical conditions and promote wellness in inpatient and outpatient settings. The term encompasses developing and ordering therapeutic diets via oral, enteral, and parenteral routes and providing other advanced medical nutrition therapy and related support activities in accordance with the commission’s scope and standards of practice for the registered dietitian.

(13) “Practice of nutrition” means the integration and application of scientific principles derived from the study of nutrition science, cellular and systemic metabolism, biochemistry, physiology, and behavioral sciences for achieving and maintaining health throughout a person’s lifespan. The term includes the provision of nutrition care services, including medical nutrition therapy, in person or via telehealth, to prevent, manage, or treat chronic diseases or medical conditions and promote wellness in outpatient settings. Consistent with level of competence, the practice of nutrition may encompass the ordering of oral therapeutic diets, the ordering of medical laboratory tests related to nutritional therapeutic treatments, and the provision of recommendations on vitamin, mineral, and other dietary supplements.

(14) “Qualified supervisor” means an individual providing supervision who assumes full professional responsibility for the work of the supervisee by verifying, directing, and approving the provided nutrition care services, medical nutrition therapy, and other work being supervised.

(15) “Registered dietitian” means a person who is credentialed by the commission or its successor organization as a registered dietitian or a registered

dietitian nutritionist and is authorized to use the title and the corresponding abbreviations “RD” or “RDN”.

(16) “Telehealth” has the same meaning as provided in 37-2-305.

Section 6. Section 37-25-201, MCA, is amended to read:

“37-25-201. Powers and duties of board. In addition to all other powers and duties conferred and imposed on the board by Title 37, chapter 1, and this chapter, the board shall adopt rules that set professional, practice, and ethical standards for licensed *dietitians and* nutritionists and other rules as may be necessary for the administration of this chapter.”

Section 7. Scope of dietetic-nutrition practice. Only an individual licensed under this chapter or as permitted pursuant to 37-25-304 may provide medical nutrition therapy as part of the practice of dietetics or nutrition.

Section 8. Licensing requirements for dietitians and nutritionists. (1) An applicant for licensure as a dietitian shall submit:

(a) a completed application as required by the board;

(b) any fees as required by the board; and

(c) proof of valid current registration with the commission or its successor organization that gives the applicant the right to use the term “registered dietitian”, “registered dietitian nutritionist”, “RD”, or “RDN”.

(2) An applicant for licensure as a nutritionist shall submit:

(a) a completed application as required by the board;

(b) any fees as required by the board; and

(c) valid proof of the following:

(i) completion of a master’s or doctoral degree with a major in human nutrition, foods and nutrition, community nutrition, public health nutrition, nutrition education, nutrition, nutrition science, clinical nutrition, applied clinical nutrition, nutrition counseling, nutrition and functional medicine, nutritional biochemistry, nutrition and integrative health, or a comparable titled major, or a doctoral degree or validated foreign equivalent, in a field of clinical health care from a college or university accredited at the time of graduation by a U.S. institutional accrediting body for higher education recognized by the United States department of education. The applicant must have completed coursework leading to competence in medical nutrition therapy, including but not limited to:

(A) 15 semester hours of courses on clinical or life sciences, including at least 3 semester hours in human anatomy and physiology or the equivalent; and

(B) 15 semester hours of courses on nutrition and metabolism, including at least 6 semester hours in biochemistry.

(ii) completion of a planned, documented, and continuous supervised practice experience approved by the board demonstrating competence in the practice of nutrition, including medical nutrition therapy, meeting all the following:

(A) completion of a supervised practice experience under this subsection (2) within 5 years of completing the requirements under subsection (2)(c)(i), unless the examining board grants an extension for a limited time;

(B) supervised practice experience completed under this subsection (2) must include at least 1,000 hours in the following practice areas, with a minimum of 200 hours each in nutrition assessment, nutrition intervention, and nutrition monitoring and evaluation;

(C) the experience is determined by the board to have prepared the applicant to provide nutrition care services for various populations of diverse cultures, genders, and across a person’s lifespan, and to be able to competently formulate actionable medical nutrition therapies and interventions, education,

counseling, and ongoing care for the prevention, modulation, and management of a range of chronic medical conditions; and

(D) the supervised practice experience completed under this subsection (2) was under the supervision of a qualified supervisor as defined in 37-25-102.

(iii) completion of the examination requirements by demonstrating passage of the certified nutrition specialist examination administered by the board for certification of nutrition specialists or its successor organization or an equivalent examination on all aspects of the practice of nutrition that has been reviewed under a program that requires a master's degree or higher, is accredited by the national commission for certifying agencies, and is approved by the board. If passage of the examination occurred more than 5 years before application, demonstration of completion of 75 hours of continuing education meeting the continuing education criteria of the board for each 5-year period post-examination; and

(iv) valid current certification with the board for certification of nutrition specialists or its successor organization that gives the applicant the right to use the title "certified nutrition specialist".

(3) A person who is licensed under this chapter on [the effective date of this act] must be licensed as a licensed dietitian without meeting any additional requirements so long as the person holds the RD credential.

Section 9. Criminal background check. (1) Each applicant for licensure shall submit a full set of the applicant's fingerprints to the board for the purpose of obtaining a state and federal criminal history background check.

(2) Each license applicant is responsible to pay all fees charged in relation to obtaining the state and federal criminal history background check.

(3) The board may require a licensee renewing a license to submit a full set of the licensee's fingerprints to the board for the purpose of obtaining a state and federal criminal history background check.

(4) The Montana department of justice may share the fingerprint data obtained under this section with the federal bureau of investigation.

Section 10. Section 37-25-303, MCA, is amended to read:

"37-25-303. Issuance of license. ~~Upon~~ *On* successful completion of the requirements in 37-25-302 [section 7], an applicant must be issued a license attesting to the date and fact of licensure."

Section 11. Section 37-25-304, MCA, is amended to read:

"37-25-304. Exemptions from licensure requirements. This chapter does not prevent:

(1) a student or intern in an approved academic program ~~or a paraprofessional with approved dietetic-nutrition training~~ from engaging in the practice of ~~dietetics-nutrition~~ *medical nutrition therapy* if a ~~licensed nutritionist~~ *qualified supervisor* is available for direct supervision and if the student; ~~or intern;~~ ~~or paraprofessional~~ does not represent to the public that the individual is a *dietitian or a nutritionist*;

(2) a ~~licensed~~ physician or nurse *licensed in this state* from engaging in the practice of ~~dietetics-nutrition~~ *medical nutrition therapy* when it is incidental to the practice of that profession;

(3) a person licensed under any other law *of this state* from engaging in the profession or business for which the person is licensed if the person does not represent to the public that the person is a *dietitian or a nutritionist*;

(4) an educator or adviser employed by a nonprofit agency acceptable to the board or by an accredited degree-granting institution or an accredited elementary or secondary school from engaging in an activity within the scope of the individual's salaried position;

~~(5) a person employed by or under contract with an agency of the state or federal government from discharging an official duty if the person does not represent to the public that the person is a nutritionist; a dietitian or nutritionist who is serving in the armed forces or the United States public health service or is employed by the United States department of veterans affairs from engaging in the practice of medical nutrition therapy or using government-issued titles, provided the practice or title use is related to the service or employment;~~

(6) a person from furnishing general nutritional information, including dissemination of literature, as to the use of food, food materials, or dietary supplements or from engaging in the explanation as to the use of foods or food products, including dietary supplements, in connection with the marketing and distribution of those products if the person does not represent to the public that the person is a *dietitian* or a nutritionist;

(7) a person from furnishing general nutrition information or disseminating literature if the person does not represent to the public that the person is a dietitian or a nutritionist; or

~~(8) a person from fulfilling state or federal regulations governing the delivery or provision of nutritional health services to hospitals or long-term care facilities if the person does not represent to the public that the person is a nutritionist. a person who is employed by this state, a county, a municipal agency, or any other political subdivision or a person who contracts with this state, a county, a municipal agency, or any other political subdivision for the purposes of providing nutrition care services for the women, infants, and children food supplement program from providing nutrition care services or utilizing the title of "nutritionist" within the discharge of the person's official duties;~~

(9) a person who does not represent as a dietitian or nutritionist from providing medical weight control for obesity for any of the following:

(a) an instructional program that has been approved in writing by one or more of the following:

(i) a licensed nutritionist or licensed dietitian; or

(ii) a health care practitioner licensed or certified in this state whose authorized scope of practice includes medical nutrition therapy; or

(b) a plan of care that is overseen by a health professional licensed in this state whose scope of practice otherwise authorizes the health professional to provide and delegate medical nutrition therapy, so long as the medical weight control services are not discretionary and do not require the exercise of professional judgment;

(10) a person who does not represent as a dietitian or nutritionist who assists with the provision of medical nutrition therapy from performing only support activities that are not discretionary and that do not require the exercise of professional judgment for their performance, and the person is directly supervised by a licensed dietitian, licensed nutritionist, or a health care practitioner licensed in this state acting within the scope of the practitioner's license;

(11) a person from providing individualized nutrition recommendations for the wellness and primary prevention of chronic disease, health coaching, holistic and wellness education, guidance, motivation, behavior change management, services for nonmedical weight control, or other nutrition care services so long as the services do not constitute medical nutrition therapy and the person does not represent as a dietitian or nutritionist;

(12) an out-of-state dietitian or nutritionist from providing medical nutrition therapy services via telehealth to a patient located in this state if the out-of-state practitioner:

(a) is licensed or certified in good standing in any state or territory with a licensed or certified scope of practice that includes the provision of medical nutrition therapy and provides medical nutrition therapy services via telehealth:

(i) in consultation with a medical nutrition therapy practitioner licensed in this state who has a practitioner-patient relationship with the patient;

(ii) for a patient whom the practitioner has a current practitioner-patient relationship and the patient is temporarily present in this state; or

(iii) pursuant to a current practitioner-patient relationship and the care is limited to temporary or short-term follow-up medical nutrition therapy services to ensure continuity of care.

(b) by providing medical nutrition therapy via telehealth as described in subsection (12)(a), consents to the jurisdiction of the board.”

Section 12. Section 37-25-305, MCA, is amended to read:

“37-25-305. Representation to public as *dietitian* or *nutritionist* – limitation on use of title. A person may not represent to the public by any title, sign, or advertisement or description of services that the person is a *dietitian* or a *nutritionist* or a licensed *dietitian* or *nutritionist* unless the person has been licensed under this chapter ~~or has met the requirements of 37-25-102(9)(b).~~

Section 13. Provisional and limited permits. (1) The board may issue a provisional license for an individual to engage in the practice of dietetics for 1 year under the supervision of a licensed dietitian on the filing of an application with appropriate fees and submission of evidence of successful completion of the education and supervised practice requirements for dietitian licensure provided for in [section 7].

(2) The board may issue a provisional license for an individual to engage in the practice of nutrition for 1 year under the supervision of a licensed dietitian or licensed nutritionist on the filing of an application with appropriate fees and submission of evidence of successful completion of the education and supervised practice requirements for nutritionist licensure provided for in [section 7].

Section 14. Repealer. The following sections of the Montana Code Annotated are repealed:

37-25-301. Scope of dietetic-nutrition practice.

37-25-302. Licensing requirements.

Section 15. Codification instruction. [Sections 7 through 9 and 13] are intended to be codified as an integral part of Title 37, chapter 25, part 3, and the provisions of Title 37, chapter 25, part 3, apply to [sections 7 through 9 and 13].

Section 16. Coordination instruction. If both House Bill No. 414 and [this act] are passed and approved and if House Bill No. 414 contains a section that creates standardized procedures for provisional licenses for all boards and programs under Title 37 and that also includes provisions for a board to prescribe relating to the provisional license, then [section 13 of this act], establishing provisional and limited permits, is void.

Approved May 8, 2025

CHAPTER NO. 537

[HB 809]

AN ACT PROHIBITING LOCAL GOVERNMENTS FROM ENACTING OR ENFORCING AN EXTREME RISK PROTECTION ORDER; PROHIBITING LOCAL GOVERNMENTS FROM RECEIVING FUNDS RELATED TO EXTREME RISK PROTECTION ORDERS; AND AMENDING SECTION 7-1-111, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Legislative finding -- extreme risk protection order prohibition. (1) The legislature finds that extreme risk protection orders violate a person's right to bear arms under the second amendment of the United States constitution and under Article II, section 12, of the Montana constitution.

(2) A local government may not:

(a) enact, adopt, or implement a resolution, ordinance, rule, regulation, or policy that would have the effect of enforcing an extreme risk protection order against a resident of the state; or

(b) accept a grant or other source of funding for the purpose of aiding in the adoption, implementation, or enforcement of an extreme risk protection order.

(3) A local government that violates this section is subject to a civil penalty of up to \$10,000, payable to the state general fund. Each instance of enforcement or attempted enforcement constitutes a separate offense.

(4) (a) As used in this section, "extreme risk protection order" means a directive, also known as a red flag law, that is an executive order or a written order or warrant issued by a judge, magistrate, or other judicial officer, with the primary purpose of reducing the risk of firearm-related death or injury by doing one or more of the following:

(i) prohibiting a named individual from having under the individual's custody or control, owning, possessing, or receiving a firearm; or

(ii) removing a firearm from or requiring the surrender of a firearm by a named individual.

(b) The term does not include an order of protection issued under Title 40, chapter 15.

Section 2. Section 7-1-111, MCA, is amended to read:

"7-1-111. Powers denied. A local government unit with self-government powers is prohibited from exercising the following:

(1) any power that applies to or affects any private or civil relationship, except as an incident to the exercise of an independent self-government power;

(2) any power that applies to or affects the provisions of 7-33-4128 or Title 39, except that subject to those provisions, it may exercise any power of a public employer with regard to its employees;

(3) any power that applies to or affects the public school system, except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise any power that it is required by law to exercise regarding the public school system;

(4) any power that prohibits the grant or denial of a certificate of compliance or a certificate of public convenience and necessity pursuant to Title 69, chapter 12;

(5) any power that establishes a rate or price otherwise determined by a state agency;

(6) any power that applies to or affects any determination of the department of environmental quality with regard to any mining plan, permit, or contract;

(7) any power that applies to or affects any determination by the department of environmental quality with regard to a certificate of compliance;

(8) any power that defines as an offense conduct made criminal by state statute, that defines an offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months' imprisonment, or both, except as specifically authorized by statute;

(9) any power that applies to or affects the right to keep or bear arms;

(10) any power that applies to or affects a public employee's pension or retirement rights as established by state law, except that a local government may establish additional pension or retirement systems;

(11) any power that applies to or affects the standards of professional or occupational competence established pursuant to Title 37 as prerequisites to the carrying on of a profession or occupation;

(12) except as provided in 7-3-1105, 7-3-1222, 7-21-3214, or 7-31-4110, any power that applies to or affects Title 75, chapter 7, part 1, or Title 87;

(13) (a) any power that applies to or affects landlords, as defined in 70-24-103 and 70-33-103, when that power is intended to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70, chapters 24, 25, and 33; or

(b) any power to deviate from or add to the exclusive application of the provisions of:

(i) the Montana Residential Landlord and Tenant Act of 1977, Title 70, chapter 24;

(ii) residential tenants' security deposit law in Title 70, chapter 25; or

(iii) the Montana Residential Mobile Home Lot Rental Act, Title 70, chapter 33.

(14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

(15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage, distribution, use, or application of commercial fertilizers or soil amendments, except that a local government may enter into a cooperative agreement with the department of agriculture concerning the use and application of commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local government from adopting or implementing zoning regulations or fire codes governing the physical location or siting of fertilizer manufacturing, storage, and sales facilities.

(16) subject to 80-5-136(10), any power to regulate the cultivation, harvesting, production, processing, sale, storage, transportation, distribution, possession, use, and planting of agricultural seeds or vegetable seeds as defined in 80-5-120. This subsection is not intended to prevent or restrict a local government from adopting or implementing zoning regulations or building codes governing the physical location or siting of agricultural or vegetable seed production, processing, storage, sales, marketing, transportation, or distribution facilities.

(17) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle, including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States;

(18) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio antenna at heights and dimensions sufficient to accommodate amateur radio service communications by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States;

(19) any power to require a fee and a permit for the movement of a vehicle, combination of vehicles, load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway that is under the jurisdiction of an entity other than the local government unit;

(20) any power to enact an ordinance governing the private use of an unmanned aerial vehicle in relation to a wildfire;

(21) any power as prohibited in 7-1-121(2) affecting, applying to, or regulating the use, disposition, sale, prohibitions, fees, charges, or taxes on auxiliary containers, as defined in 7-1-121(4);

(22) any power that provides for fees, taxation, or penalties based on carbon or carbon use in accordance with 7-1-116;

(23) any power to require an employer, other than the local government unit itself, to provide an employee or class of employees with a wage or employment benefit that is not required by state or federal law;

(24) any power to enact an ordinance prohibited in 7-5-103 or a resolution prohibited in 7-5-121 and any power to bring a retributive action against a private business owner as prohibited in 7-5-103(2)(d)(iv) and 7-5-121(2)(c)(iv);

(25) any power to prohibit the sale of alternative nicotine products or vapor products as provided in 16-11-313(1);

(26) any power to control the amount of rent charged for private residential or commercial property. Private residential property does not include property in which the local government unit has a property interest or in which the local government unit has an interest through a housing authority.

(27) any power to require additional licensing when the state is the original issuer of the license;

(28) any power to prohibit or impede the connection or reconnection of an electric, natural gas, propane, or other energy or utility service provided by a public utility, municipal utility, cooperative utility, or other energy or fuel provider;

(29) any power to prohibit the purchase or use of any fuel derived from petroleum, including but not limited to methane, propane, gasoline, and diesel fuel, or the installation or use of any vehicles, vessels, tools, or commercial and residential appliances that burn or transport petroleum fuels; or

(30) any power to require that buildings be constructed to have solar panels or wiring, batteries, or other equipment for solar panels or electric vehicles; or

(31) *any power related to an extreme risk protection order pursuant to [section 1].*"

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 7, chapter 1, part 1, and the provisions of Title 7, chapter 1, part 1, apply to [section 1].

Section 4. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved May 8, 2025

CHAPTER NO. 538

[HB 823]

AN ACT REVISING THE STATE PLAN COMMITTEE; ADDING MEMBERS TO THE STATE PLAN COMMITTEE; AUTHORIZING THE COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY TO APPOINT MEMBERS TO THE STATE PLAN COMMITTEE; COORDINATING THE MEETING OF THE STATE PLAN COMMITTEE WITH THE BOARD OF REGENTS, THE BOARD OF PUBLIC EDUCATION, AND THE MONTANA STATE WORKFORCE INNOVATION BOARD; REQUIRING THE STATE PLAN COMMITTEE TO COORDINATE WITH THE PERKINS STATE PLAN IN THE WORKFORCE INNOVATION AND OPPORTUNITY ACT COMBINED STATE PLAN; AND AMENDING SECTION 20-7-330, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-7-330, MCA, is amended to read:

“20-7-330. Creation of state plan committee – meetings – report.

(1) (a) *The commissioner of higher education and the superintendent of public instruction shall form a state plan committee as necessary to update the state plan for career and technical education as required by 20 U.S.C. 2301.*

(b) ~~The superintendent of public instruction and the commissioner of higher education shall each appoint three people from their respective advisory boards to serve on a committee to review and update the 5-year state plan for career and technical education as required by 20 U.S.C. 2323. Two members appointed from each advisory board must be educators, and the remaining member appointed from each advisory board must be a representative of a business or community interest to serve on the state plan committee as follows:~~

~~(i) two educators; and~~

~~(ii) one representative of a business or community interest.~~

(c) *The superintendent of public instruction shall appoint three people to serve on the state plan committee as follows:*

~~(i) two educators; and~~

~~(ii) one representative of a business or community interest.~~

(d) *The commissioner of labor and industry shall appoint two people to serve on the state plan committee as follows:*

~~(i) the executive director or the board chair of the Montana state workforce innovation board provided for in 53-2-1203; and~~

~~(ii) one representative of the labor community.~~

(2) (a) ~~At least four times a year, the board of regents shall meet with the superintendent of public instruction; At least three times a year, the commissioner of higher education and the superintendent of public instruction shall meet with the commissioner of labor and industry, teachers, students, labor organizations, businesses, and institutions or agencies involved in vocational and technical education. The meetings must take place during a regular meeting of each of the following entities:~~

~~(i) the board of regents;~~

~~(ii) the board of public education; and~~

~~(iii) the state workforce innovation board.~~

(b) *During the meetings required under subsection (2)(a), the state plan committee shall, at a minimum to:*

~~(a)(i) discuss the state plan;~~

~~(b)(ii) identify any issues or concerns with the administration in Montana of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 Strengthening Career and Technical Education for the 21st Century Act of 2018 in Montana;~~

~~(c)(iii) identify the needs of technical students, employers, and career programs in Montana and determine the best way to meet those needs; and~~

~~(d)(iv) if necessary, make changes in the administration and operation in Montana of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 Strengthening Career and Technical Education for the 21st Century Act of 2018 in Montana.~~

(3) *If the state plan committee submits a new or revised 4-year state plan in accordance with subsection (2)(b)(iv), the plan must be written to coordinate with or to be included in the federal Workforce Innovation and Opportunity Act combined state plan as provided in 53-2-1205.*

~~(3)(4) The board of regents shall report the results of the meetings required in subsection (2) to the legislature in accordance with the provisions of 5-11-210.”~~

Section 2. Directions to code commissioner. Whenever a reference to “5-year state plan for career and technical education reports” appears in Title 5 or Title 20 and in all law enacted by the 69th legislature, the code commissioner is directed to change it to a reference to “4-year state plan for career and technical education reports”.

Approved May 8, 2025

CHAPTER NO. 539

[HB 825]

AN ACT GENERALLY REVISING LAWS RELATED TO HEALTH CARE PROXY DECISIONMAKERS; PROVIDING FOR A PATIENT-DESIGNATED TRUSTED DECISIONMAKER; PROVIDING A HIERARCHY IN SELECTING A DECISIONMAKER; AND AMENDING SECTIONS 50-5-110, 50-5-1301, AND 50-5-1303, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Patient designation of trusted decisionmaker as proxy – documentation by attending health care provider – limitations on other proxies. (1) At any time, after admission to a hospital, before an attending health care provider determines that an adult patient lacks decisional capacity under 50-5-1302, the patient may designate a trusted decisionmaker to make health care decisions on behalf of the patient in the event the patient does not have decisional capacity.

(2) (a) The patient may designate a trusted decisionmaker by communicating to the patient’s health care provider, or to a health care professional acting under the direction of the patient’s health care provider, orally or otherwise, the identity of the individual whom the patient trusts to make health care decisions on the patient’s behalf.

(b) The health care provider shall ensure that the communication by the patient designating a trusted decisionmaker is witnessed by a third party, who may be another health care professional or who may be a friend or family member of the patient.

(3) After the patient designates a trusted decisionmaker, the attending health care provider shall immediately notify the patient’s family of the designation and shall document the following information related to the designation in the patient’s health record:

(a) the identity of the trusted decisionmaker; and

(b) contact information of the trusted decisionmaker, to the extent it is available.

(4) When an individual is designated as a trusted decisionmaker under this section, an attending health care provider may not seek to select a lay proxy decisionmaker under 50-5-1303 or a medical proxy decisionmaker under 50-5-1304 unless the attending health care provider has made reasonable efforts to contact the trusted decisionmaker and the trusted decisionmaker cannot be contacted.

(5) A trusted decisionmaker is designated under this section, and the trusted decisionmaker remains in place until the patient completes an advance directive, completes a medical durable power of attorney, designates another trusted decisionmaker, or is discharged from the hospital.

Section 2. Hierarchy of decisionmaker selection. When a decisionmaker is needed for a patient who lacks decisional capacity as determined under 50-5-1302, the decisionmaker must be selected from the following available individuals in the order listed:

(1) a guardian appointed by the patient under 72-5-316 who has medical decisionmaking authority;

(2) an agent appointed by the patient in a medical durable power of attorney or an individual designated by the patient in an advance medical directive;

(3) a spouse of the patient;

(4) an adult child of the patient;

(5) a parent of the patient;

(6) a sibling of the patient;

(7) a trusted decisionmaker designated under [section 1];

(8) a close friend of the patient who has a deep understanding of the patient's wishes; and

(9) any other proxy appointed under Title 50, chapter 5, part 13.

Section 3. Section 50-5-110, MCA, is amended to read:

"50-5-110. Patient bill of rights. (1) The following rights may be exercised by a patient or, if the patient lacks decisionmaking capacity, is legally incompetent, or is a minor, by a patient's designated surrogate or, lay proxy decisionmaker, as defined in 50-5-1301, *or trusted decisionmaker as designated under [section 1]:*

(a) The patient has the right to be treated with dignity and respect.

(b) The patient has the right to and is encouraged to obtain from physicians and other direct caregivers relevant, current, and understandable information concerning diagnosis, treatment, and prognosis.

(c) Except in emergencies when the patient lacks decisionmaking capacity and the need for treatment is urgent, the patient is entitled to be informed of information related to the specific procedures and treatments that are recommended or planned, the risks involved that may cause harm to the patient, the possible length of recuperation, and the medically reasonable alternatives and their accompanying risks and benefits.

(d) The patient has the right to know the identity of physicians, nurses, and others involved in the patient's care, as well as whether those involved are students, residents, or other trainees

(e) The patient has the right to know the immediate and long-term financial implications of treatment choices, to the extent the costs are known.

(f) (i) The patient has the right to make decisions about the plan of care prior to and during the course of treatment, to refuse a recommended treatment or plan of care, and to be informed of the medical consequences of the decision.

(ii) When the patient refuses a recommended treatment or plan of care, the patient is entitled to other appropriate care and services that the hospital provides or to transfer to another hospital or discharge to home with impunity and without penalty or threat.

(iii) A hospital shall notify patients of any policy that might affect patient choices within the facility.

(g) (i) The patient has the right to have an advance directive, including but not limited to a living will, health care proxy, or health care power of attorney, concerning treatment or designating a surrogate decisionmaker with the expectation that the hospital will honor the intent of the directive. A hospital shall advise a patient of the patient's rights under state law and hospital policy to make informed medical choices, ask if the patient has an advance directive or surrogate decisionmaker, and include that information in the patient's record.

(ii) The patient has the right to timely information about hospital policy that may limit the hospital's ability to implement fully a legally valid advance directive or surrogate decisionmaker.

(h) The patient has the right to have an advocate or support person of the patient's choosing present in clinically appropriate settings.

(i) The patient has the right to visitation privileges that are no more restrictive for nonfamily members than they are for immediate family members and, in an end-of-life situation, has the right to visitation regardless of the patient's diagnosis. If the diagnosis or condition of a person at the end of life requires specific protocols, the hospital shall make accommodations to facilitate visitation in accordance with the protocols and may not eliminate the opportunity for visitation unless allowing visitation would violate federal requirements and result in loss of payment.

(j) The patient has the right to every consideration of privacy.

(k) The patient has the right to review records pertaining to the patient's medical care and to have the information explained or interpreted as necessary.

(l) (i) The patient has the right to expect that, within its capacity and policies, a hospital will make reasonable response to the patient's request for appropriate and medically indicated care and services. The hospital shall provide evaluation, service, or referral as indicated by the urgency of the case.

(ii) When medically appropriate and legally permissible or on request of the patient, the patient may be transferred to another facility that has accepted the patient for transfer. The patient must have the benefit of complete information and explanation concerning the need for, risks and benefits of, and alternatives to the transfer.

(m) The patient has the right to be informed of the existence of business relationships among the hospital, educational institutions, other health care providers, or payers that may influence the patient's care and treatment.

(n) The patient has the right to consent or decline to participate in proposed research studies or human experimentation affecting care and treatment or requiring direct patient involvement and to have the studies fully explained prior to consent. A patient who declines to participate in research or experimentation is entitled to the most effective care that the hospital can otherwise provide.

(o) The patient has the right to expect continuity of care and care coordination between the patient's regular care provider and hospital care and to be informed by physicians and other caregivers of available and realistic patient care options when hospital care is no longer appropriate.

(p) The patient has the right to be informed of available resources for resolving disputes, grievances, and conflicts, including but not limited to ethics committees, patient representatives, and other available avenues.

(2) Health care facilities shall provide annual training to staff on the patient rights provided under this section."

Section 4. Section 50-5-1301, MCA, is amended to read:

"50-5-1301. Definitions. As used in this part, the following definitions apply:

(1) "Adult" means any person 18 years of age or older.

(2) "Advanced practice registered nurse" means an individual who is licensed under Title 37, chapter 8, to practice professional nursing in this state and who has fulfilled the requirements of the board of nursing pursuant to 37-8-202 and 37-8-409.

(3) "Attending health care provider" means the physician, advanced practice registered nurse, or physician assistant, whether selected by or assigned to a patient, who has primary responsibility for the treatment and care of the patient.

(4) "Decisional capacity" means the ability to provide informed consent to or refuse medical treatment or the ability to make an informed health care decision as determined by a health care provider experienced in this type of assessment.

(5) "Health care facility" means a hospital, critical access hospital, rural emergency hospital, or facility providing skilled nursing care as those terms are defined in 50-5-101.

(6) "Health care provider" means any individual licensed or certified by the state to provide health care.

(7) "Interested person" means a patient's:

- (a) spouse;
- (b) parent;
- (c) adult child, sibling, or grandchild; or
- (d) close friend.

(8) "Medical proxy decisionmaker" means a physician or advanced practice registered nurse designated by the attending health care provider.

(9) "Physician" means an individual licensed pursuant to Title 37, chapter 3.

(10) "Physician assistant" means an individual licensed pursuant to Title 37, chapter 20.

(11) (a) "Lay proxy decisionmaker" means an interested person selected pursuant to this part authorized to make medical decisions and discharge and transfer dispositions for a patient who lacks decisional capacity.

(b) The term does not include the patient's attending health care provider.

(12) *"Trusted decisionmaker" means an individual designated by a patient under [section 1] to make health care decisions on the patient's behalf."*

Section 5. Section 50-5-1303, MCA, is amended to read:

"50-5-1303. Notification to interested persons -- selection of proxy decisionmaker. (1) Upon a determination that an adult patient lacks decisional capacity, an attending health care provider or the provider's designee shall make reasonable efforts to notify the patient of:

(a) the determination that the patient lacks decisional capacity; and

(b) the identity of a lay or medical proxy decisionmaker selected or appointed pursuant to this part.

(2) An attending health care provider or the provider's designee shall make reasonable efforts to locate and notify as many interested persons as practicable to inform them of the patient's lack of decisional capacity and ask that a lay proxy decisionmaker be selected for the patient.

(3) The attending health care provider may rely on interested persons contacted by the provider or the provider's designee to notify other family members or interested persons.

(4) Interested persons who are informed of the patient's lack of decisional capacity shall make reasonable efforts to reach a consensus as to who among them will make medical treatment decisions on behalf of the patient. In selecting a lay proxy decisionmaker, the interested persons should consider which proposed decisionmaker:

(a) has a close relationship with the patient; and

(b) is most likely to have current knowledge of the patient's wishes regarding medical treatment.

(5) Nothing in this section precludes an interested person from initiating a guardianship proceeding for any reason at any time.

(6) *The provisions of this section do not apply when an individual who is willing and able to serve as a trusted decisionmaker is designated under [section 1]."*

Section 6. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 50, chapter 5, part 13, and the provisions of Title 50, chapter 5, part 13, apply to [sections 1 and 2].

Approved May 8, 2025

CHAPTER NO. 540

[HB 855]

AN ACT PROVIDING FUNDING FOR ADDITIONAL WILDLIFE CROSSINGS IN MONTANA; AUTHORIZING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO ESTABLISH A SPECIALTY LICENSE PLATE; ESTABLISHING A BIG GAME AND WILDLIFE HIGHWAY CROSSINGS AND ACCOMMODATIONS ACCOUNT; PROVIDING A STATUTORY APPROPRIATION; PROVIDING FUNDING TO THE DEPARTMENT OF TRANSPORTATION FOR QUALIFYING PROJECTS; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, per capita Montana has the second highest number of wildlife-vehicle collisions in the nation with a 1-in-54 likelihood of hitting an animal and with a minimum of 6,000 big game carcasses collected each year from Montana highways; and

WHEREAS, wildlife accommodations, such as underpasses and overpasses with fencing on public roadways, effectively reduce vehicle collisions with wildlife, save lives, and help prevent the costs associated with wildlife-vehicle collisions, including vehicle damage repairs, human injuries or fatalities, emergency response, and other costs estimated at a minimum of \$119,719,100 annually, as well as the costs of increased insurance premiums; and

WHEREAS, protecting wildlife movement has been shown to improve the herd vitality of big game species that are critical to Montana's outdoor recreation economy and is essential for other wildlife species; and

WHEREAS, most Montanans from all walks of life support constructing more wildlife crossings, 77% of Montanans support providing funding for additional wildlife crossings in Montana, according to a 2023 survey done by Moore Information Group, and 70% of Montanans have been involved in a wildlife-vehicle collision in the state; and

WHEREAS, the Montana Wildlife and Transportation Partnership was created in part to assemble data and supporting information to define and identify areas of greatest need for wildlife accommodations based on wildlife-vehicle conflict; and

WHEREAS, the effectiveness and cost-efficiency of all the existing efforts in the state would be enhanced by a comprehensive and coordinated effort through funding for highway accommodation and crossing projects.

Be it enacted by the Legislature of the State of Montana:

Section 1. Big game and wildlife highway crossings and accommodations license plates -- authorization. (1) An applicant for a generic specialty license plate that is sponsored by the department of fish, wildlife, and parks shall make a donation of \$20 to the department upon initial issuance of the license plates and a donation of \$20 for each annual renewal of the license plates.

(2) The department shall establish a generic specialty license plate, as defined in 61-3-473, no later than January 1, 2026.

(3) The donation provided for in subsection (1) must be paid to the county treasurer, who shall remit the entire amount to the department of revenue for deposit in the big game and wildlife highway crossings and accommodations state special revenue account established in [section 2].

Section 2. Big game and wildlife highway crossings and accommodations account -- purpose -- funds invested -- statutory appropriation. (1) There is a big game and wildlife highway crossings and accommodations state special revenue account within the state special revenue fund established in 17-2-102 administered by the department.

(2) The purpose of the account is to provide money exclusively for the design, construction, identification, maintenance, and conservation of wildlife crossings and other related crossing accommodations to improve wildlife permeability in the state, which may include but is not limited to:

(a) matching any federal money for a project to design, construct, identify, maintain, or protect wildlife crossings and other related crossing accommodation features;

(b) conducting studies on wildlife crossings and other related crossing accommodations;

(c) designing or constructing wildlife crossings and other related crossing accommodation features;

(d) planning related to wildlife crossings and other related crossing accommodation features, including assessing risk of wildlife disease transmission;

(e) staffing needs related to the design, construction, identification, maintenance, and conservation of wildlife crossings and other related crossing accommodation features; and

(f) any other needs the department identified in consultation with the department of transportation related to wildlife roadway accommodations.

(3) There must be deposited into the account transfers, gifts, grants, donations, income from investment of the fund, and any other money distributed or otherwise allocated to the fund.

(4) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for the purposes of [sections 1 and 2].

(5) Money in the account may be used to fund the department of transportation for eligible projects or programs as determined by the department of fish, wildlife, and parks. The department of fish, wildlife, and parks shall consult with the department of transportation before funding qualifying projects in the state in accordance with subsection (2).

(6) Money that was not encumbered or expended from the account during the previous biennium must remain in the account.

(7) Deposits to the account must be placed in short-term investments to accrue interest. The interest must be deposited into the account.

Section 3. Section 17-7-502, MCA, is amended to read:

“17-7-502. Statutory appropriations – definition – requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-316; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121; 15-1-142; 15-1-143; 15-1-218; 15-1-2302; 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-128; 15-70-131; 15-70-132; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-6-214; 17-7-133; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305;

19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-3-369; 20-7-1709; 20-8-107; 20-9-250; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-4-1506; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-2-203; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; [section 2]; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and any costs or fees associated with issuing, paying, securing, redeeming, or defeasing all bonds, notes, or other obligations, as due in the ordinary course or when earlier called for redemption or defeased, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 1, 2, 3, Ch. 139, L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30, 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; pursuant to sec. 1, Ch. 20, L. 2023, sec. 2, Ch. 20, L. 2023, and sec. 3, Ch. 20, L. 2023, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2029; pursuant to sec. 9, Ch. 44, L. 2023, the inclusion of 15-1-142 terminates December 31, 2025; pursuant to sec. 10, Ch. 47, L. 2023, the inclusion of 15-1-2302 terminates June 30, 2025; pursuant to sec. 2, Ch. 374, L. 2023, the inclusion of 10-3-802 terminates June 30, 2031; pursuant to sec. 12, Ch. 558, L. 2023, the inclusion of 20-9-250 terminates December 31, 2029; pursuant to sec. 4, Ch. 621, L. 2023, the inclusion of 22-1-327 terminates July 1, 2029; pursuant to sec. 24, Ch. 722, L. 2023, the inclusion of 17-7-133 terminates June 30, 2027; pursuant to sec. 10, Ch. 758, L. 2023, the inclusion of 44-4-1506 terminates June 30, 2027; and pursuant to sec. 10, Ch. 764, L. 2023, the inclusion of 15-1-143 terminates December 31, 2025.)"

Section 4. Transfer of funds. By June 30, 2025, the state treasurer shall transfer \$100 from the general fund to the big game and wildlife highway crossings and accommodations state special revenue account established in [section 2].

Section 5. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 6. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 87, chapter 1, part 6, and the provisions of Title 87, chapter 1, part 6, apply to [sections 1 and 2].

Section 7. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 541

[SB 25]

AN ACT REGULATING THE USE OF DEEPPAKES IN ELECTION COMMUNICATIONS AND ELECTIONEERING COMMUNICATIONS; PROVIDING DEFINITIONS; PROVIDING EXCEPTIONS; PROVIDING FOR INJUNCTIVE RELIEF, ACTUAL DAMAGES, AND PUNITIVE DAMAGES; PROVIDING FOR THE FILING OF A COMPLAINT WITH THE COMMISSIONER OF POLITICAL PRACTICES; AND PROVIDING PENALTIES.

WHEREAS, the revolutionary innovations in generative artificial intelligence systems capable of producing image, audio, video, text, and multimedia content pose a threat to free and fair elections in the State of Montana; and

WHEREAS, AI-generated content may be used to create deepfakes that falsely depict a candidate's speech or action in order to spread misinformation and disinformation at scale and with unprecedented speed; and

WHEREAS, a deepfake is comparable to forcing a person to say or do something in a video recorded under threat, in which the person appears to say or do something the person would not normally say or do; and

WHEREAS, a voter's opinion of a candidate may be irreparably tainted by a fabricated representation of an officeholder, incumbent, or candidate saying or doing something the person did not say or do; and

WHEREAS, these false, negative portrayals may exist indefinitely once posted on the Internet and permanently damage an officeholder, incumbent, or candidate's reputation and even put the person's safety at risk.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 4], unless the context clearly indicates otherwise, the following definitions apply:

(1) (a) "AI-generated content" means image, video, audio, multimedia, or text content that is substantially created or modified by generative artificial intelligence in a manner that materially alters the meaning or significance that a reasonable person understands from the content.

(b) The term does not include image, video, audio, multimedia, or text content that is minimally edited, adjusted, or enhanced by generative artificial intelligence in a manner that does not materially alter the meaning or significance that a reasonable person understands from the content.

(2) “Candidate” has the same meaning as provided in 13-1-101(8) and, for the purposes of [sections 1 through 4], also includes an incumbent or current officeholder.

(3) “Deepfake” means AI-generated content or synthetic media that depicts a candidate or political party with the intent to injure the reputation of the candidate or party or otherwise deceive a voter. A deepfake:

(a) appears to a reasonable person to depict an individual saying or doing something that did not occur in reality; or

(b) provides a reasonable person a fundamentally different understanding or impression of the appearance, action, or speech than a reasonable person would have from the unaltered, original version of the image, audio recording, or video recording.

(4) “Generative artificial intelligence” means an artificial intelligence system capable of generating novel image, video, audio, multimedia, or text content based on prompts or other forms of data provided by a person.

(5) “Synthetic media” means an image, audio recording, or video recording of an individual’s appearance, speech, or conduct that has been created or intentionally manipulated with the use of generative artificial intelligence or other digital technology to create a realistic but false image, audio, or video.

Section 2. Use of deepfakes in election communications and electioneering communications – disclosure requirements – exceptions. (1) (a) Except as provided in subsection (1)(b), a person, corporation, committee, political party, or other entity, working in an official election capacity, may not, within 60 days of the initiation of voting in an election at which a candidate for elective office appears on the ballot, pay for or sponsor the production, creation, or distribution of an election communication or an electioneering communication that the person, corporation, committee, political party, or other entity knew or should have known is a deepfake of a candidate or political party on the ballot.

(b) The prohibition in subsection (1)(a) does not apply to an election communication or electioneering communication that includes a disclosure stating, “This _____ (image/audio/video/multimedia) has been significantly edited by artificial intelligence and depicts speech or conduct that falsely appears to be authentic or truthful”.

(c) The disclosure required in subsection (1)(b) must:

(i) for a printed communication, be stated in bold font with a font size of at least 12 points;

(ii) for a television or video communication, be clearly readable throughout the communication and occupy at least 4% of the vertical picture height;

(iii) for a public internet communication that includes text or graphic components, be viewable without the user taking any action and be large enough to be clearly readable; or

(iv) for an audio component of a communication, be at least 8 seconds in length and be spoken in a clearly audible and intelligible manner at either the beginning or the end of the audio component of the communication.

(2) The prohibition in subsection (1)(a) and the penalties in [sections 3 and 4] do not apply to the following:

(a) a radio or television broadcasting station, including a cable television, satellite television, streaming service operator, or website, or programmer or producer, may broadcast or transmit a deepfake as part of a bona fide newscast, news interview, news documentary, or on-the-spot coverage of a bona fide news event if the broadcast clearly acknowledges through context or a disclaimer, in a manner that can be easily read or heard, that content being broadcast or transmitted may be generated in whole or in part by using

artificial intelligence and may not accurately represent the speech or conduct of the depicted individual;

(b) a radio or television broadcasting station, including a cable television, satellite television, streaming service operator, or website, or programmer, or producer, when it is paid to broadcast a deepfake, or in cases in which federal law requires broadcasters to air advertisements from legally qualified candidates;

(c) a deepfake that constitutes satire or parody;

(d) a distribution platform may publish, post, or distribute an advertisement or a prerecorded phone message if the distribution platform shows that its disclaimer requirements are consistent with the requirements provided in subsections (1)(b) and (1)(c) and that it provided those disclaimer requirements to the person that purchased the distribution of the advertisement or prerecorded phone message by or on the distribution platform; or

(e) a provider of an interactive computer service as defined in 47 U.S.C. 230, or an information service or a telecommunications service, both as defined in 47 U.S.C. 153, for content provided by another party.

Section 3. Injunctive and civil relief. (1) In addition to any other penalties or remedies provided by law, a candidate or political party representing the candidate aggrieved by a violation of [section 2] may maintain an action against any violator in any court of equitable jurisdiction to prevent, restrain, or enjoin the violation.

(2) An action commenced pursuant to subsection (1) must be expedited by the district court and given preference over all other matters currently before the district court upon showing of present or ongoing harm.

(3) If a violation of [section 2] is established, the court shall enjoin and restrain to otherwise prohibit the violation and, in addition, shall assess in favor of the plaintiff and against the defendant the costs of the suit and reasonable attorney fees.

(4) In the action, it is not necessary that actual damages to the plaintiff be alleged or proved, but when alleged and proved, the plaintiff in the action, in addition to injunctive relief and fees and costs of suit, is entitled to recover from the defendant the amount of actual damages sustained by the plaintiff and up to \$10,000 in punitive damages.

(5) In any civil action alleging a violation of [section 2], the plaintiff bears the burden of establishing the violation by clear and convincing evidence.

Section 4. Penalties. (1) A complaint of [section 2] may be filed with the commissioner of political practices pursuant to 13-37-111. A sufficiency finding from the commissioner of an investigation into a complaint filed under 13-37-111 is subject to civil penalties under 13-37-128 imposed by the commissioner or county attorney.

(2) A second sufficiency finding by the commissioner must be referred to the county attorney for misdemeanor prosecution. Upon conviction, a violation is punishable by a fine of not more than \$500, imprisonment in county jail for not more than 6 months, or both.

(3) A third sufficiency finding by the commissioner must be referred to the attorney general or county attorney for felony prosecution. Upon conviction, a violation is punishable by a fine of not more than \$5,000, imprisonment in the state prison for not more than 2 years, or both.

(4) All penalties accruing under this section are cumulative to each other, and a suit for or recovery of one is not a bar to the recovery of any other penalty.

(5) A prosecution under this section is not a bar to enforcement by injunction or other appropriate civil or administrative remedies.

Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as a new part of Title 13, chapter 35, and the provisions of Title 13, chapter 35, apply to [sections 1 through 4].

Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved May 8, 2025

CHAPTER NO. 542

[SB 39]

AN ACT REVISING THE AWARD OF ATTORNEY FEES IN CIVIL LAWSUITS; REQUIRING THAT CERTAIN AWARDS OF ATTORNEY FEES MUST BE REASONABLE; PROVIDING REQUIREMENTS FOR REASONABLE ATTORNEY FEE AWARD REQUESTS; AMENDING SECTION 25-10-711, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Requirements for attorney fee award request – awards against state. (1) An award of attorney fees must be reasonable. A reasonable claim for attorney fees must include the following:

- (a) the date a task is performed and the name of the timekeeper;
- (b) a specific description of the task, including but not limited to the nature, purpose, or subject of the work performed. Generic descriptors for a task and the work claimed are unreasonable. The description of the task performed must be sufficient for a reasonable person to understand what work is being claimed.

- (c) time that is billed in increments of tenths of an hour, including:

- (i) a statement indicating whether the attorney has or has had a client who pays the hourly rate requested by the attorney; and

- (ii) a detailed list of time spent on each task. Block billing or aggregating of tasks may not be claimed.

- (d) a specific description of the work performed;

- (e) an itemized list of expenses, including receipts from vendors;

- (f) in-house copying expenses that may not exceed 10 cents a page; and

- (g) an indication of whether a portion of the attorney fee has been paid and whether the client is responsible for paying a portion of the bill if the attorney does not collect the award.

(2) There is a rebuttable presumption that the following are unreasonable requests for attorney fees:

- (a) sending more than one attorney to a deposition;

- (b) sending more than two attorneys to an oral argument or trial;

- (c) charging for the cost of telephone calls, faxes, library facilities, or electronic research subscriptions; and

- (d) charging an hourly rate greater than the statewide average if the attorney has not been practicing for more than 10 years.

(3) In addition to the requirements imposed by subsections (1) and (2), when considering an award of attorney fees against the state, the court shall take into consideration the hourly rate charged by the attorney representing the state. If the court elects to grant a rate higher than the rate charged by the attorney representing the state, the court shall provide an explanation

as to why the rate charged by the state does not adequately compensate the attorney for which attorney fees are requested.

(4) In determining the reasonableness of an award of attorney fees, a court may consider factors other than those contained in this section.

(5) The provisions of this section do not apply to claims for attorney fees for an amount less than \$10,000.

Section 2. Section 25-10-711, MCA, is amended to read:

“25-10-711. Award of costs against governmental entity when suit or defense is frivolous or pursued in bad faith. (1) In any civil action brought by or against the state, a political subdivision, or an agency of the state or a political subdivision, the opposing party, whether plaintiff or defendant, is entitled to the costs enumerated in 25-10-201 and reasonable attorney fees as determined by the court if:

(a) the opposing party prevails against the state, political subdivision, or agency; and

(b) the court finds that the claim or defense of the state, political subdivision, or agency that brought or defended the action was frivolous or pursued in bad faith.

(2) Costs may be granted pursuant to subsection (1) notwithstanding any other provision of the law to the contrary. *The award of costs must be reasonable and considered under [section 1].*”

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 25, chapter 10, and the provisions of Title 25, chapter 10, apply to [section 1].

Section 4. Applicability. [This act] applies to awards of attorney fees in civil lawsuits that are pending on or after [the effective date of this act].

Approved May 8, 2025

CHAPTER NO. 543

[SB 46]

AN ACT REVISING REGISTRATION FEES FOR UNDERGROUND PETROLEUM OR HAZARDOUS SUBSTANCE STORAGE TANKS; AMENDING SECTION 75-11-505, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 75-11-505, MCA, is amended to read:

“75-11-505. Administrative rules – underground storage tanks – petroleum mixing zones. (1) The department may adopt, amend, or repeal rules for the prevention and correction of leakage from underground storage tanks, including:

(a) reporting by owners and operators;

(b) financial responsibility;

(c) release detection, prevention, and corrective action;

(d) procedures and standards for the issuance, nonissuance, renewal, nonrenewal, modification, revocation, suspension, and enforcement of permits authorizing the operation of underground storage tanks;

(e) standards for design, construction, installation, and closure;

(f) *in collaboration with stakeholders*, development of a schedule of annual fees, not to exceed \$108 \$300 for a tank over 1,100 gallons and not to exceed \$36 \$100 for a tank 1,100 gallons or less, for each tank, for tank registration to defray state and local costs of implementing an underground storage tank

program. The department may prorate fees to cover periods not equal to 12 months in order to provide staggered scheduling of renewal dates.

(g) a system for assessment of administrative penalties, notice, and appeals under 75-11-525; and

(h) delegation of authority and funds to local agents for inspections and implementation. The delegation of authority to local agents must complement and may not duplicate existing authority for implementation of rules adopted by the department of justice that relate to underground storage tanks.

(2) In accordance with 75-11-508, the department:

(a) shall adopt rules governing the inclusion of a petroleum mixing zone, as defined in 75-11-503, in a corrective action plan; and

(b) may incorporate by reference rules adopted pursuant to 75-5-301 and 75-5-303 related to mixing zones for ground water.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 544

[SB 48]

AN ACT REVISING COMPLAINT PROCESSES WITH THE JUDICIAL STANDARDS COMMISSION TO ALLOW A CITIZEN TO MAKE PUBLIC THE CITIZEN'S COMPLAINTS CONCERNING A JUDGE AT ANY TIME; AND AMENDING SECTIONS 3-1-1106 AND 3-1-1123, MCA.

WHEREAS, the Judicial Standards Commission generally requires the complaint process against judicial officers to be confidential, including requiring confidentiality from the citizen making the complaint; and

WHEREAS, the Legislature maintains that a citizen should not be forced to choose between filing a complaint against a judicial officer and the citizen's right of free speech concerning the alleged misconduct of the judicial officer.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-1-1106, MCA, is amended to read:

“3-1-1106. Investigation of judicial officers – complaint – hearing – recommendations. (1) (a) The commission, upon the filing of a written complaint by any citizen of the state, shall initiate an investigation of any judicial officer in the state to determine if there are grounds for conducting additional proceedings before the commission. If the commission's investigation indicates that additional proceedings before the commission may be justified, the commission shall require the citizen who filed the original written complaint to sign a verified written complaint by affidavit before conducting additional proceedings. *A citizen has the right to make public the citizen's complaints concerning a judicial officer at any time.*

(b) The commission shall give the judicial officer written notice of the citizen's complaint and of the initiation of an investigation. Notice must also be given if a verified written complaint by affidavit is filed and must include the charges made, the grounds for the charges, and a statement that the judicial officer may file an answer. The notice must be signed by the commission.

(2) The commission, after an investigation that it considers necessary and on a finding of good cause, shall:

(a) order a hearing to be held before it concerning the censure, suspension, removal, or retirement of a judicial officer;

(b) publicly advise the judicial officer and the supreme court, in writing, that the complaint will be dismissed if the judicial officer files with the commission a letter stating that the officer will take corrective action satisfactory to the commission; or

(c) request that the supreme court appoint one or more special masters who are judges of courts of record to hear and take evidence and to report to the commission.

(3) If after a hearing or after considering the record and the report of the masters the commission finds the charges true, it shall publicly recommend to the supreme court the censure, suspension, removal, or disability retirement of the judicial officer.”

Section 2. Section 3-1-1123, MCA, is amended to read:

“3-1-1123. Public statements by commission. In any case in which the subject matter becomes public, through *the citizen complainant*, through independent sources, through a waiver of confidentiality by the judge against whom the complaint has been filed, or under other circumstances as the commission considers appropriate, the commission may issue statements as it considers appropriate in order to:

- (1) confirm the pendency of the investigation;
- (2) clarify the procedural aspects of the disciplinary proceedings;
- (3) explain the right of the judge to a fair hearing without prejudgment;
- (4) state that the judge denies the allegations; or
- (5) declare that there is insufficient evidence for a finding of good cause.”

Approved May 8, 2025

CHAPTER NO. 545

[SB 53]

AN ACT GENERALLY REVISING TAX LAWS; REVISING INCOME TAX LAWS TO IMPLEMENT CHANGES FROM PRIOR INCOME TAX SIMPLIFICATION LEGISLATION; REVISING MARITAL FILING STATUS REFERENCES; PROVIDING FOR A DEADLINE EXTENSION WHEN A DEADLINE FALLS ON A RECOGNIZED FEDERAL FILING HOLIDAY; PROVIDING A REFERENCE TO THE INTERNAL REVENUE CODE FOR WHAT IS CONSIDERED A QUALIFIED WITHDRAWAL FROM AN EDUCATION SAVINGS ACCOUNT; REMOVING THE REQUIREMENT OF PROVIDING A CERTIFICATE FROM THE DEPARTMENT OF REVENUE TO THE CLERK OF THE COURT REGARDING THE ESTATE TAX IN A PROBATE PROCEEDING; AMENDING SECTIONS 15-30-2120, 15-30-2339, 15-30-2342, 15-30-2538, 15-62-103, 15-62-207, AND 53-25-117, MCA; REPEALING SECTION 72-3-1006, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-30-2120, MCA, is amended to read:

“15-30-2120. Adjustments to federal taxable income to determine Montana taxable income. (1) The items in subsection (2) are added to and the items in subsection (3) are subtracted from federal taxable income to determine Montana taxable income.

(2) The following are added to federal taxable income:

(a) to the extent that it is not exempt from taxation by Montana under federal law, interest from obligations of a territory or another state or any

political subdivision of a territory or another state and exempt-interest dividends attributable to that interest except to the extent already included in federal taxable income;

(b) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

(c) depreciation or amortization taken on a title plant as defined in 33-25-105;

(d) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer's Montana income tax in the year deducted;

(e) an item of income, deduction, or expense to the extent that it was used to calculate federal taxable income if the item was also used to calculate a credit against a Montana income tax liability;

(f) a deduction for an income distribution from an estate or trust to a beneficiary that was included in the federal taxable income of an estate or trust in accordance with sections 651 and 661 of the Internal Revenue Code, 26 U.S.C. 651 and 661;

(g) a withdrawal from a medical care savings account provided for in Title 15, chapter 61, used for a purpose other than an eligible medical expense or long-term care of the employee or account holder or a dependent of the employee or account holder;

(h) a withdrawal from a first-time home buyer savings account provided for in Title 15, chapter 63, used for a purpose other than for eligible costs for the purchase of a single-family residence;

(i) for a taxpayer that deducts the qualified business income deduction pursuant to section 199A of the Internal Revenue Code, 26 U.S.C. 199A, an amount equal to the qualified business income deduction claimed;

(j) for an individual taxpayer that deducts state income taxes pursuant to section 164(a)(3) of the Internal Revenue Code, 26 U.S.C. 164(a)(3), an additional amount equal to the state income tax deduction claimed, not to exceed the amount required to reduce the federal itemized amount computed under section 161 of the Internal Revenue Code, 26 U.S.C. 161, to the amount of the federal standard deduction allowable under section 63(c) of the Internal Revenue Code, 26 U.S.C. 63(c); and

(k) for a pass-through entity, estate, or trust, the amount of state income taxes deducted pursuant to section 164(a)(3) of the Internal Revenue Code, 26 U.S.C. 164(a)(3).

(3) To the extent they are included as income or gain or not already excluded as a deduction or expense in determining federal taxable income, the following are subtracted from federal taxable income:

(a) a deduction for an income distribution from an estate or trust to a beneficiary in accordance with sections 651 and 661 of the Internal Revenue Code, 26 U.S.C. 651 and 661, recalculated according to the additions and subtractions in subsections (2) and (3)(b) through (3)(o);

(b) if exempt from taxation by Montana under federal law:

(i) interest from obligations of the United States government and exempt-interest dividends attributable to that interest; and

(ii) railroad retirement benefits;

(c) (i) salary received from the armed forces by residents of Montana who are serving on active duty in the regular armed forces and who entered into active duty from Montana;

(ii) the salary received by residents of Montana for active duty in the national guard. For the purposes of this subsection (3)(c)(ii), "active duty"

means duty performed under an order issued to a national guard member pursuant to:

(A) Title 10, U.S.C.; or

(B) Title 32, U.S.C., for a homeland defense activity, as defined in 32 U.S.C. 901, or a contingency operation, as defined in 10 U.S.C. 101, and the person was a member of a unit engaged in a homeland defense activity or contingency operation.

(iii) the amount received by a beneficiary pursuant to 10-1-1201; and

(iv) all payments made under the World War I bonus law, the Korean bonus law, and the veterans' bonus law. Any income tax that has been or may be paid on income received from the World War I bonus law, Korean bonus law, and the veterans' bonus law is considered an overpayment and must be refunded upon the filing of an amended return and a verified claim for refund on forms prescribed by the department in the same manner as other income tax refund claims are paid.

(d) annual contributions and income in a medical care savings account provided for in Title 15, chapter 61, and any withdrawal for payment of eligible medical expenses or for the long-term care of the employee or account holder or a dependent of the employee or account holder;

(e) contributions or earnings withdrawn from a family education savings account provided for in Title 15, chapter 62, or from a qualified tuition program established and maintained by another state as provided in section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified education expenses, as defined in 15-62-103, of a designated beneficiary;

(f) interest and other income related to contributions that were made prior to January 1, 2024, that are retained in a first-time home buyer savings account provided for in Title 15, chapter 63, and any withdrawal for payment of eligible costs for the first-time purchase of a single-family residence;

(g) for each taxpayer that has attained the age of 65, an additional subtraction of \$5,500;

(h) the amount of a scholarship to an eligible student by a student scholarship organization pursuant to 15-30-3104;

(i) a payment received by a private landowner for providing public access to public land pursuant to Title 76, chapter 17, part 1;

(j) the amount of any refund or credit for overpayment of income taxes imposed by this state or any other taxing jurisdiction to the extent included in gross income for federal income tax purposes but not previously allowed as a deduction for Montana income tax purposes;

(k) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

(l) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in 15-31-163;

(m) payments from the Montana end of watch trust as provided in 2-15-2041;

(n) (i) subject to subsection (9), a portion of military pensions or military retirement income as calculated pursuant to subsection (8) that is received by a retired member of:

(A) the armed forces of the United States, as defined in 10 U.S.C. 101;

(B) the Montana army national guard or the army national guard of other states;

(C) the Montana air national guard or the air national guard of other states; or

(D) a reserve component, as defined in 38 U.S.C. 101, of the United States armed forces; and

(ii) subject to subsection (9), up to 50% of all income received as survivor benefits for military service provided for in subsection (3)(n)(i)(A) through (3)(n)(i)(D); and

(o) the amount of the property tax rebate received under 15-1-2302.

(4) (a) A taxpayer who, in determining federal taxable income, has reduced the taxpayer's business deductions:

(i) by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken; or

(ii) for which a federal tax credit was elected under the Internal Revenue Code is allowed to deduct the amount of the business expense paid when there is no corresponding state income tax credit or deduction, regardless of the credit taken.

(b) The deductions in subsection (4)(a) must be made in the year that the wages, salaries, or business expenses were used to compute the credit. In the case of a partnership or small business corporation, the deductions in subsection (4)(a) must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) (a) An individual, *a head of household, or a married individual who files a separate return on a separate form pursuant to 15-30-2113* who contributes to one or more accounts established under the Montana family education savings program or to a qualified tuition program established and maintained by another state, as provided in section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce taxable income by the lesser of \$3,000 or the amount of the contribution. ~~In the case of married taxpayers, each spouse is~~ *Married taxpayers who file a joint return* are entitled to a reduction, not in excess of ~~\$3,000~~ *\$6,000*, for ~~the spouses' their~~ contributions to the accounts. ~~Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse.~~ The reduction in taxable income under this subsection (5)(a) applies only ~~with respect~~ to contributions to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (2)(d) do not apply ~~with respect~~ to withdrawals of contributions that reduced federal taxable income.

(b) Contributions made pursuant to this subsection (5) are subject to the recapture tax provided for in 15-62-208.

(6) (a) An individual, *a head of household, or a married individual who files a separate return on a separate form pursuant to 15-30-2113* who contributes to one or more accounts established under the Montana achieving a better life experience program or to a qualified program established and maintained by another state may reduce taxable income by the lesser of \$3,000 or the amount of the contribution. ~~In the case of married taxpayers, each spouse is~~ *Married taxpayers filing a joint return* are entitled to a reduction, not to exceed ~~\$3,000~~ *\$6,000*, for ~~the spouses' their~~ contributions to the accounts. ~~Spouses may jointly elect to treat one-half of the total contributions made by the spouses as being made by each spouse.~~ The reduction in taxable income under this subsection (6)(a) applies only ~~with respect~~ to contributions to an account for which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (2)(d) do not apply ~~with respect~~ to withdrawals of contributions that reduced taxable income.

(b) Contributions made pursuant to this subsection (6) are subject to the recapture tax provided in 53-25-118.

(7) By November 1 of each year, the department shall multiply the subtraction from federal taxable income for a taxpayer that has attained the age of 65 contained in subsection (3)(g) by the inflation factor for that tax year, rounding the result to the nearest \$10. The resulting amount is effective for that tax year and must be used as the basis for the subtraction from federal taxable income determined under subsection (3)(g).

(8) (a) Subject to subsection (9), the subtraction in subsection (3)(n)(i) is equal to the lesser of:

- (i) the amount of Montana source wage income on the return; or
- (ii) 50% of the taxpayer's military pension or military retirement income.

(b) For the purposes of subsection (8)(a)(i), "Montana source wage income" means:

(i) wages, salary, tips, and other compensation for services performed in the state;

(ii) net income from a trade, business, profession, or occupation carried on in the state; and

(iii) net income from farming activities carried on in the state.

(9) The subtractions in subsection (3)(n):

(a) may only be claimed by a person who:

(i) becomes a resident of the state after June 30, 2023; or

(ii) was a resident of the state before receiving military pension or military retirement income and remained a resident after receiving military pension or military retirement income;

(b) may only be claimed for 5 consecutive years after satisfying the provisions of subsection (9)(a); and

(c) are not available if a taxpayer claimed the exemption before becoming a nonresident. (Subsection (3)(o) terminates June 30, 2025--sec. 10, Ch. 47, L. 2023; subsections (3)(n), (8), and (9) terminate December 31, 2033--sec. 4, Ch. 650, L. 2023.)"

Section 2. Section 15-30-2339, MCA, is amended to read:

"15-30-2339. Residential property tax credit for elderly -- filing date. (1) Except as provided in subsection (3), a claim for relief must be submitted at the same time the claimant's individual income tax return is due. For an individual not required to file a tax return, the claim must be submitted on or before April 15 of the year following the year for which relief is sought. *If April 15 falls on a holiday that defers a filing date that is recognized by the internal revenue service and that is not observed in Montana, the claim may be made on the first business day after the holiday.*

(2) A receipt showing property tax billed or a receipt showing gross rent paid, whichever is appropriate, must be filed with each claim. In addition, each claimant shall, at the request of the department, supply all additional information necessary to support a claim.

(3) The department may grant a reasonable extension for filing a claim whenever, in its judgment, good cause exists.

(4) In the event that an individual who would have a claim under 15-30-2337 through 15-30-2341 dies before filing the claim, the personal representative of the estate of the decedent may file the claim.

(5) The department or an individual may revise a return and make a claim under 15-30-2337 through 15-30-2341 within 3 years from the last day prescribed for filing a claim for relief."

Section 3. Section 15-30-2342, MCA, is amended to read:

“15-30-2342. Credit for preservation of historic buildings. (1) There is allowed as a credit against the taxes imposed by 15-30-2103 a percentage of the credit allowed for qualified rehabilitation expenditures with respect to any certified historic building located in Montana as provided in 15-31-151.

~~(2) The credit may not be allocated between spouses unless the property is used by a small business corporation or a partnership in which they are shareholders or partners.”~~

Section 4. Section 15-30-2538, MCA, is amended to read:

“15-30-2538. Withholding required on mineral royalty payments.

Except as provided in 15-30-2539, each remitter shall withhold from each royalty payment made to a royalty owner an amount equal to 6% *the highest marginal tax rate in effect under 15-30-2103* of the net amount payable to the royalty owner.”

Section 5. Section 15-62-103, MCA, is amended to read:

“15-62-103. Definitions. As used in this chapter, the following definitions apply:

(1) “Account” means an individual account established under this chapter.

(2) “Account owner” means the person who enters into a participation agreement and establishes an account on behalf of a designated beneficiary.

(3) “Board” means the board of regents of higher education established by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1505.

(4) “Committee” means the family education savings program oversight committee established in 20-25-901.

(5) “Contributor” means a person who makes a contribution to an account for the benefit of a designated beneficiary.

(6) “Designated beneficiary” means, with respect to an account, the person designated at the time that the account is opened as the person whose education expenses are expected to be paid from the account or if this person is replaced in accordance with 15-62-202, the individual replacing the former designated beneficiary.

(7) “Education expense” means expenses for tuition, fees, books, supplies, equipment required for an education program, principal or interest on any qualified education loan, and any other typical education expense associated with an education program up to the maximum amount allowable under section 529 of the Internal Revenue Code, 26 U.S.C. 529, as amended.

(8) “Financial institution” means any bank, commercial bank, national bank, savings bank, savings and loan association, credit union, insurance company, trust company, investment company, or other similar entity that is authorized to do business in this state.

(9) “Higher education institution” means an eligible educational institution as defined in section 529 of the Internal Revenue Code, 26 U.S.C. 529.

(10) “Investment products” means, without limitation, certificates of deposit, savings accounts paying fixed or variable interest, financial instruments, one or more mutual funds, and a mix of mutual funds.

(11) “Member of the family” means, with respect to a designated beneficiary, a member of the family of the designated beneficiary as defined in section 529 of the Internal Revenue Code, 26 U.S.C. 529.

(12) “Nonqualified withdrawal” means a withdrawal from an account that is not:

(a) a qualified withdrawal;

(b) a withdrawal made as the result of the death or disability of the designated beneficiary of an account;

(c) a withdrawal that is made on the account of a scholarship or the allowance or payment described in section 135(d)(1)(B) or (d)(1)(C) of the

Internal Revenue Code, 26 U.S.C. 135(d)(1)(B) or (d)(1)(C), and that is received by the designated beneficiary; or

(d) a rollover or change of designated beneficiary described in 15-62-202.

(13) "Participation agreement" means an agreement between the board, as trustee and as administrator of the program, and the account owner that creates a trust interest in the trust and provides for participation in the program.

(14) "Program" means the family education savings program established pursuant to 15-62-201. The program must be structured to permit the long-term accumulation of savings that can be used to finance all or a share of the costs of education.

(15) "Qualified education expenses" means any education expense permitted by section 529 of the Internal Revenue Code, 26 U.S.C. 529.

(16) "Qualified tuition program" means a qualified tuition program as defined in section 529 of the Internal Revenue Code, 26 U.S.C. 529.

(17) "Qualified withdrawal" means:

(a) a withdrawal from an account to pay the qualified education expenses of the designated beneficiary of the account; or

(b) a special rollover from an account to a Roth IRA as provided for in section 529(c)(3)(E) of the Internal Revenue Code, 26 U.S.C. 529(c)(3)(E).

(18) "Trust" means the family education savings trust established by 15-62-301.

(19) "Trust interest" means an account owner's interest in the trust created by a participation agreement and held for the benefit of a designated beneficiary.

(20) "Trustee" means the board in its capacity as trustee of the trust."

Section 6. Section 15-62-207, MCA, is amended to read:

"15-62-207. Deductions for contributions. An individual who contributes to one or more accounts in a tax year is entitled to reduce the individual's adjusted gross income, in accordance with 15-30-2120, ~~by the total amount of the contributions, but not more than \$3,000.~~ The contribution must be made to an account owned by the contributor, the contributor's spouse, or the contributor's child or stepchild if the contributor's child or stepchild is a Montana resident."

Section 7. Section 53-25-117, MCA, is amended to read:

"53-25-117. Deductions for contributions. An individual who contributes to one or more accounts established pursuant to this chapter in a tax year is entitled to reduce the individual's Montana taxable income, in accordance with 15-30-2120, ~~by the total amount of the contributions, but not more than \$3,000;~~ if the individual is:

(1) the designated beneficiary;

(2) the spouse of the designated beneficiary; or

(3) a parent, grandparent, sibling, or child related to the designated beneficiary by blood, marriage, or legal adoption."

Section 8. Repealer. The following section of the Montana Code Annotated is repealed:

72-3-1006. Certificate.

Section 9. Effective date. [This act] is effective on passage and approval.

Section 10. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2023.

Approved May 8, 2025

CHAPTER NO. 546

[SB 56]

AN ACT REVISING SUPPLEMENTAL EMPLOYER CONTRIBUTIONS TO RETIREMENT SYSTEMS; EXTENDING AND INCREASING THE SUPPLEMENTAL EMPLOYER CONTRIBUTION RATE FOR THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; ADDING SUPPLEMENTAL EMPLOYER CONTRIBUTION RATES FOR THE HIGHWAY PATROL OFFICERS' RETIREMENT SYSTEM, THE SHERIFFS' RETIREMENT SYSTEM, AND THE GAME WARDENS' AND PEACE OFFICERS' RETIREMENT SYSTEM; AMENDING SECTIONS 19-3-316, 19-6-404, 19-7-404, AND 19-8-504, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 19-3-316, MCA, is amended to read:

"19-3-316. Employer contribution rates. (1) Each employer shall contribute to the system. Except as provided in subsection (2), the employer shall pay as employer contributions 6.9% of the compensation paid to all of the employer's employees plus any additional contribution under subsection (3), except for those employees properly excluded from membership. Of employer contributions made under this subsection for both defined benefit plan and defined contribution plan members, a portion must be allocated for educational programs as provided in 19-3-112. Employer contributions for members under the defined contribution plan must be allocated as provided in 19-3-2117.

(2) Local government and school district employer contributions must be the total employer contribution rate provided in subsection (1) minus the state contribution rates under 19-3-319.

(3) (a) Subject to subsection (4), each employer shall contribute to the system an additional employer contribution equal to the percentage specified in subsection (3)(b) of the compensation paid to all of the employer's employees, except for those employees properly excluded from membership.

(b) The percentage of compensation to be contributed under subsection (3)(a) is 1.27% for fiscal year 2014 and increases by 0.1% each fiscal year through ~~fiscal year 2024~~ *fiscal year 2035*. For fiscal years beginning after ~~June 30, 2024~~, *June 30, 2035*, the percentage of compensation to be contributed under subsection (3)(a) is ~~2.27%~~ *3.27%*.

(4) (a) The board shall ~~annually~~ review *annually* the additional employer contribution provided for under subsection (3) and recommend adjustments to the legislature as needed to maintain the amortization schedule set by the board for payment of the system's unfunded liabilities.

(b) The employer contribution required under subsection (3) terminates on ~~January 1~~ *July 1* following the board's receipt of the system's actuarial valuation if the actuarial valuation determines that terminating the additional employer contribution pursuant to this subsection (4)(b) and reducing the employee contribution pursuant to 19-3-315(2) would not cause the amortization period to exceed 25 years."

Section 2. Section 19-6-404, MCA, is amended to read:

"19-6-404. State employer contribution – definitions. (1) (a) From July 1, 2023, through June 30, 2024, the state shall pay as employer contributions 38.33% of compensation paid to all of the employer's employees, except those properly excluded from membership.

(b) Beginning July 1, 2023, and each fiscal year thereafter, the state treasurer shall transfer \$500,000 from the state special revenue fund provided

for in 17-2-102 to the highway patrol officers' retirement pension trust fund by August 15. This transfer must terminate when the public employees' retirement board's actuary determines that the funded ratio for the highway patrol officers' pension system is 100% funded.

(2) (a) Beginning July 1, 2024, the state shall pay as employer contributions an actuarially determined employer contribution that is determined annually by the public employees' retirement board's actuary in accordance with the provisions of this section and part of the plan's annual actuarial valuation. This actuarially determined employer contribution is effective July 1 following the annual actuarial valuation completed in the prior calendar year with a maximum annual increase of no more than 0.5% in any year.

(b) The actuarially determined employer contribution must be the sum of the following contribution rates minus the employee contribution provided for in 19-6-402:

(i) the contribution rate determined under subsection (2)(c) to pay off the legacy unfunded liability;

(ii) the contribution rate determined under subsection (2)(d) to pay for the contemporary unfunded liability; and

(iii) the contribution rate determined under subsection (2)(e) to pay for the normal cost of benefits as they accrue.

(c) (i) Except as provided in subsection (2)(c)(ii), the contribution rate under subsection (2)(b)(i) for the legacy unfunded liability must be the amount required on a level percent basis to amortize the legacy unfunded liability attributable to the employer's employees over a closed 25-year amortization period beginning July 1, 2023.

(ii) If the June 30, 2023, actuarial valuation determines the system's amortization period is less than 25 years, then the closed amortization period used for the purposes of subsection (2)(c)(i) must be that amortization period.

(d) The contribution rate under subsection (2)(b)(ii) for the contemporary unfunded liability must be the amount required on a level percent basis to pay the annual contemporary unfunded liabilities attributable to the employer's employees over a layered amortization schedule so that each fiscal year's contemporary unfunded liability is amortized over a closed 10-year period, starting with the contemporary unfunded liability for the fiscal year ending June 30, 2024.

(e) The contribution rate under subsection (2)(b)(iii) for the normal cost of benefits as they accrue must be the amount required on a level percent basis to pay the normal cost of benefits as determined in the annual actuarial valuation as the benefits accrue for each of the employer's employees.

(3) (a) *Subject to subsection (4), the state shall contribute to the system an additional employer contribution equal to the percentage specified in subsection (3)(b) of the compensation paid to all of the employer's employees, except for those properly excluded from membership.*

(b) *The percentage of compensation to be contributed under subsection (3)(a) is 0.1% for fiscal year 2026 and increases by 0.1% each fiscal year through fiscal year 2035. For fiscal years beginning after June 30, 2035, the percentage of compensation to be contributed under subsection (3)(a) is 1%.*

(4) (a) *The board shall review annually the additional employer contribution provided for under subsection (3) and recommend adjustments to the legislature as needed to maintain the amortization schedule set by the board for payment of the system's unfunded liabilities.*

(b) *The employer contribution required under subsection (3) terminates on July 1 following the board's receipt of the system's actuarial valuation if the actuarial valuation determines that terminating the additional employer*

contribution pursuant to this subsection (4)(b) would not cause the amortization period to exceed 25 years.

~~(3)~~(5) For the purposes of this section, the following definitions apply:

(a) "Contemporary unfunded liability" means the plan's annual fiscal year actuarial gains and losses smoothed over 5 years starting with the fiscal year ending June 30, 2019.

(b) "Legacy unfunded liability" means the unfunded liability of the plan as of June 30, 2023."

Section 3. Section 19-7-404, MCA, is amended to read:

"19-7-404. Employer contributions – definitions. (1) From July 1, 2023, through June 30, 2024, each employer shall pay 13.115% of the compensation paid to all of the employer's employees.

(2) (a) Beginning July 1, 2024, each employer shall pay as employer contributions an actuarially determined employer contribution that is determined annually by the public employees' retirement board's actuary in accordance with the provisions of this section and part of the plan's annual actuarial valuation. This actuarially determined employer contribution is effective July 1 following the annual actuarial valuation completed in the prior calendar year with a maximum annual increase of no more than 0.5% in any year.

(b) The actuarially determined employer contribution must be the sum of the following contribution rates minus the employee contribution provided for in 19-7-403:

(i) the contribution rate determined under subsection (2)(c) to pay off the legacy unfunded liability;

(ii) the contribution rate determined under subsection (2)(d) to pay for the contemporary unfunded liability; and

(iii) the contribution rate determined under subsection (2)(e) to pay for the normal cost of benefits as they accrue.

(c) (i) Except as provided in subsection (2)(c)(ii), the contribution rate under subsection (2)(b)(i) for the legacy unfunded liability must be the amount required on a level percent basis to amortize the legacy unfunded liability attributable to the employer's employees over a closed 25-year amortization period beginning July 1, 2023.

(ii) If the June 30, 2023, actuarial valuation determines the system's amortization period is less than 25 years, then the closed amortization period used for the purposes of subsection (2)(c)(i) must be that amortization period.

(d) The contribution rate under subsection (2)(b)(ii) for the contemporary unfunded liability must be the amount required on a level percent basis to pay the annual contemporary unfunded liabilities attributable to the employer's employees over a layered amortization schedule so that each fiscal year's contemporary unfunded liability is amortized over a closed 10-year period, starting with the contemporary unfunded liability for the fiscal year ending June 30, 2024.

(e) The contribution rate under subsection (2)(b)(iii) for the normal cost of benefits as they accrue must be the amount required on a level percent basis to pay the normal cost of benefits as determined in the annual actuarial valuation as the benefits accrue for each of the employer's employees.

(3) (a) If the required contributions under subsections (1) and (2) exceed the funds available to a county from general revenue sources, a county may, subject to 15-10-420, budget, levy, and collect annually a tax on the taxable value of all taxable property within the county that is sufficient to raise the amount of revenue needed to meet the county's obligation.

(b) (i) A county may impose a mill levy to fund the employer contribution required under subsections (1) and (2). The mill levy is not subject to 15-10-420(1) or to approval at an election under 15-10-425.

(ii) Each year prior to implementing a levy under subsection (3)(b)(i), after notice of the hearing given under 7-1-2121, a public hearing must be held regarding any proposed increase.

(iii) If a levy pursuant to this subsection (3)(b) is decreased or ceases to be levied, the revenue may not be combined with the revenue determined in 15-10-420(1)(a).

(4) (a) *Subject to subsection (5), each employer shall contribute to the system an additional employer contribution equal to the percentage specified in subsection (4)(b) of the compensation paid to all of the employer's employees, except for those members properly excluded from membership.*

(b) *The percentage of compensation to be contributed under subsection (4)(a) is 0.1% for fiscal year 2026 and increases by 0.1% each fiscal year through fiscal year 2035. For fiscal years beginning after June 30, 2035, the percentage of compensation to be contributed under subsection (4)(a) is 1%.*

(5) (a) *The board shall review annually the additional employer contribution provided for under subsection (4) and recommend adjustments to the legislature as needed to maintain the amortization schedule set by the board for payment of the system's unfunded liabilities.*

(b) *The employer contribution required under subsection (4) terminates on July 1 following the board's receipt of the system's actuarial valuation if the actuarial valuation determines that terminating the additional employer contribution pursuant to this subsection (5)(b) and reducing the member contributions pursuant to 19-7-403(1)(b) would not cause the amortization period to exceed 25 years.*

(4)(6) For the purposes of this section, the following definitions apply:

(a) "Contemporary unfunded liability" means the plan's annual fiscal year actuarial gains and losses smoothed over 5 years starting with the fiscal year ending June 30, 2019.

(b) "Legacy unfunded liability" means the unfunded liability of the plan as of June 30, 2023."

Section 4. Section 19-8-504, MCA, is amended to read:

"19-8-504. Employer's contribution – definitions. (1) From July 1, 2023, through June 30, 2024, the employer shall pay as employer contributions 10.56% of the compensation paid to all of the employer's employees, except those properly excluded from membership.

(2) (a) Beginning July 1, 2024, each employer shall pay as employer contributions an actuarially determined employer contribution that is determined annually by the public employees' retirement board's actuary in accordance with the provisions of this section and part of the plan's annual actuarial valuation. This actuarially determined employer contribution is effective July 1 following the annual actuarial valuation completed in the prior calendar year with a maximum annual increase of no more than 0.5% in any year.

(b) The actuarially determined employer contribution must be the sum of the following contribution rates minus the employee contribution provided in 19-8-502:

(i) the contribution rate determined under subsection (2)(c) to pay off the legacy unfunded liability;

(ii) the contribution rate determined under subsection (2)(d) to pay for the contemporary unfunded liability; and

(iii) the contribution rate determined under subsection (2)(e) to pay for the normal cost of benefits as they accrue.

(c) (i) Except as provided in subsection (2)(c)(ii), the contribution rate under subsection (2)(b)(i) for the legacy unfunded liability must be the amount required on a level percent basis to amortize the legacy unfunded liability attributable to the employer's employees over a closed 25-year amortization period beginning July 1, 2023.

(ii) If the June 30, 2023, actuarial valuation determines the system's amortization period is less than 25 years, then the closed amortization period used for the purposes of subsection (2)(c)(i) must be that amortization period.

(d) The contribution rate under subsection (2)(b)(ii) for the contemporary unfunded liability must be the amount required on a level percent basis to pay the annual contemporary unfunded liabilities attributable to the employer's employees over a layered amortization schedule so that each fiscal year's contemporary unfunded liability is amortized over a closed 10-year period, starting with the contemporary unfunded liability for the fiscal year ending June 30, 2024.

(e) The contribution rate under subsection (2)(b)(iii) for the normal cost of benefits as they accrue must be the amount required on a level percent basis to pay the normal cost of benefits as determined in the annual actuarial valuation as the benefits accrue for each of the employer's employees.

(3) (a) *Subject to subsection (4), each employer shall contribute to the system an additional employer contribution equal to the percentage specified in subsection (3)(b) of the compensation paid to all of the employer's employees, except for those employees properly excluded from membership.*

(b) *The percentage of compensation to be contributed under subsection (3)(a) is 0.1% for fiscal year 2026 and increases by 0.1% each fiscal year through fiscal year 2035. For fiscal years beginning after June 30, 2035, the percentage of contribution to be contributed under subsection (3)(a) is 1%.*

(4) (a) *The board shall review annually the additional employer contribution provided for under subsection (3) and recommend adjustments to the legislature as needed to maintain the amortization schedule set by the board for payment of the system's unfunded liabilities.*

(b) *The employer contribution required under subsection (3) terminates on July 1 following the board's receipt of the system's actuarial valuation if the actuarial valuation determines that terminating the additional employer contribution pursuant to this subsection (4)(b) would not cause the amortization period to exceed 25 years.*

(3)(5) For the purposes of this section, the following definitions apply:

(a) "Contemporary unfunded liability" means the plan's annual fiscal year actuarial gains and losses smoothed over 5 years starting with the fiscal year ending June 30, 2019.

(b) "Legacy unfunded liability" means the unfunded liability of the plan as of June 30, 2023."

Section 5. Effective date. [This act] is effective July 1, 2025.

Approved May 8, 2025

CHAPTER NO. 547

[SB 57]

AN ACT REVISING COUNTY CANVASSING PROCESSES; REQUIRING A BOARD OF COUNTY CANVASSERS TO COMPARE THE NUMBER OF VOTES CAST TO THE NUMBER OF ELECTORS AND THE NUMBER OF

PERSONS WHO VOTED DURING CANVASS; REQUIRING A BOARD OF COUNTY CANVASSERS TO INVESTIGATE DISCREPANCIES OR ERRORS IN VOTE COUNTS; PROVIDING THAT A BOARD OF COUNTY CANVASSERS MAY REQUIRE A RECOUNT OF VOTES IN AN INVESTIGATION OF DISCREPANCIES OR ERRORS; AMENDING SECTIONS 13-15-403 AND 13-16-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-15-403, MCA, is amended to read:

“13-15-403. Canvass to be public – nonessentials to be disregarded – ~~petition for recount investigation of discrepancies in vote counts.~~

(1) The canvass must be public. It must proceed by opening the returns, auditing the tally books or other records of votes cast, determining the vote for each individual and for and against each ballot issue from each precinct, compiling totals, *comparing the number of votes cast to the number of electors and number of persons who voted*, and declaring or certifying the results.

(2) The board shall record all write-in votes shown in the returns from each precinct.

(3) The returns may not be rejected because of failure to show who administered the oath to the election judges, failure to complete all the certificates in a pollbook, or failure of any other act making up the returns that is not essential to determine for whom the votes were cast.

(4) If during a canvass the board finds *that the votes returned for any candidate or ballot issue exceeds the number of electors or the total number of persons who voted in a precinct or an finds any error in a precinct or precincts* affecting the accuracy of vote totals, the board *shall immediately investigate the discrepancy or error until the discrepancy or error is reconciled and documented or is determined to have no impact on the outcome of the election. However, the investigation must be concluded within 2 days. The board may* ~~petition for~~ *require the election administrator to conduct a recount of the votes cast in a race or races, a ballot issue or ballot issues, or the precinct or precincts, as provided in 13-16-201, or for an inspection of to inspect the ballots, as provided in 13-16-420, as part of its investigation.”*

Section 2. Section 13-16-201, MCA, is amended to read:

“13-16-201. Conditions under which recount to be conducted. (1) A recount must be conducted if:

(a) a candidate for a precinct office or for a county, municipal, or district office voted for in only one county, other than a legislator or a judge of the district court, is defeated by a margin not exceeding 1/4 of 1% of the total votes cast or by a margin not exceeding 10 votes, whichever is greater, and the defeated candidate, within 5 days after the official canvass, files with the election administrator a verified petition stating that the candidate believes that a recount will change the result and that a recount of the votes for the office or nomination should be conducted;

(b) a candidate for a congressional office, a state or district office voted on in more than one county, the legislature, or judge of the district court is defeated by a margin not exceeding 1/4 of 1% of the total votes cast for all candidates for the same position and the defeated candidate, within 5 days after the official canvass, files a petition with the secretary of state as set forth in subsection (1)(a). The secretary of state shall immediately notify each election administrator whose county includes any precincts that voted for the office, and a recount must be conducted in those precincts.

(c) a question submitted to the vote of the people of a county, municipality, or district within a county is decided by a margin not exceeding 1/4 of 1% of

the total votes cast for and against the question and a petition as set forth in subsection (1)(a) is filed with the election administrator. This petition must be signed by not less than 10 electors of the jurisdiction and must be filed within 5 days after the official canvass.

(d) a question submitted to the vote of the people of the state is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question and a petition as set forth in subsection (1)(a) is filed with the secretary of state. This petition must be signed by not less than 100 electors of the state, representing at least five counties of the state, and must be filed within 5 days after the official canvass.

(e) a question submitted to the vote of the people of a multicounty district is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question and a petition as set forth in subsection (1)(a) is filed with the secretary of state. This petition must be signed by not less than 25 electors of the district, representing at least two counties, and must be filed within 5 days after the official canvass.

(f) a canvassing board ~~petitions for~~ *requires the election administrator to conduct a recount, as provided in 13-15-403. The recount must follow the procedure established in part 4 of this chapter.*

(2) If the election is a school election, the petition is filed with the school election filing officer.

(3) When a recount is required under subsection (1)(b), (1)(d), or (1)(e), the secretary of state shall immediately notify each election administrator of the filing of the petition, and a recount must be conducted in all precincts in each affected county.”

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 548

[SB 60]

AN ACT REVISING LAWS RELATING TO THE PAYMENT OF TAXES BY CERTAIN CAPTIVE INSURERS; REVISING LAWS RELATING TO THE PAYMENT OF TAXES BY SPECIAL PURPOSE INSURERS; AMENDING SECTION 33-28-201, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-28-201, MCA, is amended to read:

“33-28-201. Tax on premiums collected. (1) (a) Each captive insurance company shall pay to the commissioner, on or before March 1 of each year, a tax on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurance company during the year ending December 31, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums, including dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

(b) The tax on direct premiums collected in this state must be calculated as follows:

- (i) 0.4% on the first \$20 million; and
- (ii) 0.3% on each subsequent dollar collected.

(2) (a) Each captive insurance company shall pay to the commissioner on or before March 1 of each year a tax on assumed reinsurance premiums.

(b) A reinsurance tax does not apply to premiums for risks or portions of risks that are subject to taxation on a direct basis pursuant to subsection (1).

(c) A reinsurance premium tax is not payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if the transaction is part of a plan to discontinue the operations of the other insurer and if the intent of the parties to the transaction is to renew or maintain the business with the captive insurance company.

(d) The amount of the reinsurance tax must be calculated as follows:

(i) 0.225% on the first \$20 million of assumed reinsurance premiums;

(ii) 0.150% on the next \$20 million of assumed reinsurance premiums; and

(iii) 0.050% on each subsequent dollar of assumed reinsurance premiums.

(3) (a) (i) Except as provided in subsections (3)(a)(ii) and (3)(a)(iii), if the aggregate taxes to be paid by a captive insurance company calculated under subsections (1) and (2) amount to less than \$5,000 in any year, the captive insurance company shall pay a tax of \$5,000 for that year.

(ii) In the calendar year in which a captive insurance company that is subject to the minimum tax is first authorized, the tax must be prorated on a quarterly basis as follows:

(A) \$5,000 if authorized in the first quarter;

(B) \$3,750 if authorized in the second quarter;

(C) \$2,500 if authorized in the third quarter; and

(D) \$1,250 if authorized in the fourth quarter.

(iii) In the calendar year in which a captive insurance company that is subject to the minimum tax surrenders its certificate of authority, the tax must be prorated on a quarterly basis as follows:

(A) \$1,250 if surrendered in the first quarter;

(B) \$2,500 if surrendered in the second quarter;

(C) \$3,750 if surrendered in the third quarter; and

(D) \$5,000 if surrendered in the fourth quarter.

(b) Each protected cell in a protected cell captive insurance company must be considered separately in determining the aggregate tax to be paid by the protected cell captive insurance company. If the protected cell captive insurance company insures any risks in addition to the protected cells, the determination of the aggregate tax to be paid by the protected cell captive insurance company must also include the premium on those risks.

(c) Each series of members as defined in 35-8-102 of a limited liability company formed as a special purpose captive insurance company must be considered separately pursuant to this section, except that the minimum tax as described in subsection (3)(a) must be considered in the aggregate.

(4) (a) *Except as provided in subsection (4)(b), aggregate* ~~Aggregate~~ taxes to be paid by a captive insurance company, ~~other than a protected cell captive insurance company,~~ under this section may not exceed \$100,000 in any year.

(b) *The provisions of subsection (4)(a) do not apply to:*

(i) *a protected cell captive insurance company; and*

(ii) *a special purpose captive insurance company with a series of members as defined in 35-8-102 in a limited liability company.*

(5) Two or more captive insurance companies under common ownership and control must be taxed as though they were a single captive insurance company.

(6) For the purposes of this section, "common ownership and control" means:

(a) in the case of stock corporations, the direct or indirect ownership of 80% or more of the outstanding voting stock of two or more corporations by the same shareholder or shareholders; and

(b) in the case of mutual insurers, the direct or indirect ownership of 80% or more of the surplus and the voting power of two or more insurers by the same member or members.

(7) Only the branch business of a branch captive insurance company is subject to taxation under the provisions of this section.

(8) The tax provided for in this section must be calculated on an annual basis notwithstanding policies or contracts of insurance or contracts of reinsurance issued on a multiyear basis. In the case of multiyear policies or contracts, the premium must be prorated for the purposes of determining the tax.”

Section 2. Applicability. [This act] applies to tax years beginning after December 31, 2025.

Approved May 8, 2025

CHAPTER NO. 549

[SB 71]

AN ACT EXTENDING THE TERMINATION DATE FOR REVISIONS TO THE NATURAL RESOURCES OPERATIONS STATE SPECIAL REVENUE ACCOUNT AND GENERAL FUND TRANSFER; AMENDING SECTION 3, CHAPTER 137, LAWS OF 2021, AND SECTION 1, CHAPTER 573, LAWS OF 2023; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3, Chapter 137, Laws of 2021, is amended to read:

“**Section 3. Termination.** [This act] terminates June 30, 2029.”

Section 2. Section 1, Chapter 573, Laws of 2023, is amended to read:

“**Section 1.** Section 3, Chapter 137, Laws of 2021, is amended to read:

“**Section 3. Termination.** [This act] terminates June 30, 2029.””

Section 3. Effective date. [This act] is effective July 1, 2025.

Approved May 8, 2025

CHAPTER NO. 550

[SB 74]

AN ACT GENERALLY REVISING MARIJUANA LAWS; REVISING THE DEFINITION OF THE RETAIL PRICE OF MARIJUANA FOR TAX PURPOSES; REVISING THE DEFINITIONS OF “EMPLOYEE” AND “FINANCIAL INTEREST”; REVISING LAWS RELATED TO A THIRD-PARTY CONTRACT; REMOVING PROBATIONARY LICENSING OPTIONS FOR MARIJUANA TESTING LABORATORIES; REVISING MARIJUANA HOTLINE REPORTING REQUIREMENTS; REVISING PROVISIONS FOR PROPERTY OWNER PERMISSIONS ON LICENSE RENEWALS; REVISING MARIJUANA MANUFACTURER LICENSING FEES; ALLOWING FOR A VARIANCE IN THE MEASUREMENT OF A MARIJUANA PRODUCT SOLD AS A CAPSULE, TINCTURE, TOPICAL PRODUCT, SUPPOSITORY, TRANSDERMAL PATCH, AND OTHER MARIJUANA PRODUCTS; AMENDING SECTIONS 15-64-101, 16-12-102, 16-12-104, 16-12-125, 16-12-203, 16-12-221, AND 16-12-224, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-64-101, MCA, is amended to read:

“15-64-101. Definitions. As used in this part, the following definitions apply:

- (1) “Adult-use dispensary” has the meaning provided in 16-12-102.
- (2) “Customer” means a person to whom a sale of marijuana or a marijuana product is made.
- (3) “Department” means the department of revenue provided for in 2-15-1301.
- (4) “Dispensary” means an adult-use dispensary or a medical marijuana dispensary.
- (5) “Licensee” means a licensee operating an adult-use dispensary or a medical marijuana dispensary.
- (6) “Marijuana” has the meaning provided in 16-12-102.
- (7) “Marijuana product” has the meaning provided in 16-12-102.
- (8) “Medical marijuana dispensary” has the meaning provided in 16-12-102.
- (9) “Person” means an individual, firm, partnership, corporation, association, company, committee, other group of persons, or other business entity, however formed.
- (10) “Retail price” means the established price for which an adult-use dispensary or medical marijuana dispensary sells marijuana or a marijuana product to a purchaser ~~before~~ *after* any discount or reduction.
- (11) “Sale” or “sell” means any transfer of marijuana or marijuana products for consideration, exchange, barter, gift, offer for sale, or distribution in any manner or by any means.”

Section 2. Section 16-12-102, MCA, is amended to read:

“16-12-102. Definitions. As used in this chapter, the following definitions apply:

- (1) “Adult-use dispensary” means a licensed premises from which a person licensed by the department may:
 - (a) obtain marijuana or marijuana products from a licensed cultivator, manufacturer, dispensary, or other licensee approved under this chapter; and
 - (b) sell marijuana or marijuana products to registered cardholders, adults that are 21 years of age or older, or both.
- (2) “Affiliate” means a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, another person.
- (3) “Beneficial owner of”, “beneficial ownership of”, or “beneficially owns an” is determined in accordance with section 13(d) of the federal Securities and Exchange Act of 1934, as amended.
- (4) “Canopy” means the total amount of square footage dedicated to live plant production at a licensed premises consisting of the area of the floor, platform, or means of support or suspension of the plant.
- (5) “Consumer” means a person 21 years of age or older who obtains or possesses marijuana or marijuana products for personal use from a licensed dispensary but not for resale.
- (6) “Control”, “controls”, “controlled”, “controlling”, “controlled by”, and “under common control with” mean the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting owner’s interests, by contract, or otherwise.
- (7) “Controlling beneficial owner” means a person that satisfies one or more of the following:

(a) is a natural person, an entity that is organized under the laws of and for which its principal place of business is located in one of the states or

territories of the United States or District of Columbia, or a publicly traded corporation, and:

(i)(i) acting alone or acting in concert, owns or acquires beneficial ownership of 5% or more of the owner's interest of a marijuana business;

(ii)(ii) is an affiliate that controls a marijuana business and includes, without limitation, any manager; or

(iii)(iii) is otherwise in a position to control the marijuana business; or

(b)(b) is a qualified institutional investor acting alone or acting in concert that owns or acquires beneficial ownership of more than 15% of the owner's interest of a marijuana business.

(8) "Correctional facility or program" means a facility or program that is described in 53-1-202(2) or (3) and to which an individual may be ordered by any court of competent jurisdiction.

(9) "Cultivator" means a person licensed by the department to:

(a) plant, cultivate, grow, harvest, and dry marijuana; and

(b) package and relabel marijuana produced at the location in a natural or naturally dried form that has not been converted, concentrated, or compounded for sale through a licensed dispensary.

(10) "Debilitating medical condition" means:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is a persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; or

(k) posttraumatic stress disorder.

(11) "Department" means the department of revenue provided for in 2-15-1301.

(12) (a) "Employee" means an individual employed to do something for the benefit of an employer.

(b) The term includes a manager, agent, or director of a partnership, association, company, corporation, limited liability company, or organization.

(c) ~~The term does not include a third party with whom a licensee has a contractual relationship.~~

(13) (a) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or indirectly through a business, an investment, or a spouse, parent, or child relationship, to 5% or more of the net profits or net worth of the entity in which the interest is held.

(b) ~~The term includes holders of private loans or convertible securities.~~

(c) The term does not include interest held by a bank or licensed lending institution or a security interest, lien, or encumbrance ~~but does include holders of private loans or convertible securities.~~

(14) "Former medical marijuana licensee" means a person that was licensed by or had an application for licensure pending with the department

of public health and human services to provide marijuana to individuals with debilitating medical conditions on April 27, 2021.

(15) (a) "Indoor cultivation facility" means an enclosed area used to grow live plants that is within a permanent structure using artificial light exclusively or to supplement natural sunlight.

(b) The term may include:

(i) a greenhouse; or

(ii) a similar structure that protects the plants from variable temperature, precipitation, and wind.

(16) "Licensed premises" means all locations related to, or associated with, a specific license that is authorized under this chapter and includes all enclosed public and private areas at the location that are used in the business operated pursuant to a license, including offices, kitchens, restrooms, and storerooms.

(17) "Licensee" means a person holding a state license issued pursuant to this chapter.

(18) "Local government" means a county, a consolidated government, or an incorporated city or town.

(19) "Manufacturer" means a person licensed by the department to convert or compound marijuana into marijuana products, marijuana concentrates, or marijuana extracts and package, repack, label, or relabel marijuana products as allowed under this chapter.

(20) (a) "Marijuana" means all plant material from the genus *Cannabis* containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination.

(b) The term does not include hemp as provided in 80-18-101.

(c) The term does not include synthetic marijuana products.

(d) The term does not include a drug approved by the United States food and drug administration pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301, et seq.

(21) "Marijuana business" means a cultivator, manufacturer, adult-use dispensary, medical marijuana dispensary, combined-use marijuana licensee, testing laboratory, marijuana transporter, or any other business or function that is licensed by the department under this chapter.

(22) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the resin extracted from any part of the marijuana plant.

(23) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, or byproducts of the marijuana plant, including but not limited to marijuana concentrates and other marijuana products.

(24) "Marijuana product" means a product that contains marijuana and is intended for use by a consumer. The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives, and marijuana concentrates, including concentrates intended for use by smoking or vaping.

(25) "Marijuana transporter" means a person that is licensed to transport marijuana and marijuana products from one marijuana business to another marijuana business, or to and from a testing laboratory, and to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises, but is not authorized to sell marijuana or marijuana products to consumers under any circumstances.

(26) "Mature marijuana plant" means a harvestable marijuana plant.

(27) "Medical marijuana" means marijuana or marijuana products that are for sale solely to a cardholder who is registered under Title 16, chapter 12, part 5.

(28) “Medical marijuana dispensary” means the location from which a registered cardholder may obtain marijuana or marijuana products.

(29) “Outdoor cultivation” means live plants growing in an area exposed to natural sunlight and environmental conditions including variable temperature, precipitation, and wind.

(30) “Owner’s interest” means the shares of stock in a corporation, a membership in a nonprofit corporation, a membership interest in a limited liability company, the interest of a member in a cooperative or in a limited cooperative association, a partnership interest in a limited partnership, a partnership interest in a partnership, and the interest of a member in a limited partnership association.

(31) “Paraphernalia” has the meaning provided for “drug paraphernalia” in 45-10-101.

(32) “Passive beneficial owner” means any person acquiring an owner’s interest in a marijuana business that is not otherwise a controlling beneficial owner or in control.

(33) “Person” means an individual, partnership, association, company, corporation, limited liability company, or organization.

(34) “Qualified institutional investor” means:

(a) a bank or banking institution including any bank, trust company, member bank of the federal reserve system, bank and trust company, stock savings bank, or mutual savings bank that is organized and doing business under the laws of this state, any other state, or the laws of the United States;

(b) a bank holding company as defined in 32-1-109;

(c) a company organized as an insurance company whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is subject to regulation or oversight by the insurance department of the office of the state auditor or a similar agency of another state, or any receiver or similar official or any liquidating agent for such a company, in their capacity as such an insurance company;

(d) an investment company registered under section 8 of the federal Investment Company Act of 1940, as amended;

(e) an employee benefit plan or pension fund subject to the federal Employee Retirement Income Security Act of 1974, excluding an employee benefit plan or pension fund sponsored by a licensee or an intermediary holding company licensee that directly or indirectly owns 10% or more of a licensee;

(f) a state or federal government pension plan; or

(g) any other entity identified by rule by the department.

(35) “Registered cardholder” or “cardholder” means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

(36) “Registry identification card” means a document issued by the department pursuant to 16-12-503 that identifies an individual as a registered cardholder.

(37) (a) “Resident” means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of this chapter if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

(38) “Seedling” means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

(39) “Synthetic cannabinoids” has the meaning ~~provided~~ *described* in 50-32-222 and includes any cannabinoids produced artificially, whether from chemical synthesis or biosynthesis using recombinant biological agents, including but not limited to yeast and algae.

(40) “Synthetic marijuana product” means marijuana or marijuana products that contain synthetic cannabinoids.

(41) “Testing laboratory” means a qualified person, licensed under this chapter that:

(a) provides testing of representative samples of marijuana and marijuana products; and

(b) provides information regarding the chemical composition and potency of a sample, as well as the presence of molds, pesticides, or other contaminants in a sample.

(42) (a) “Usable marijuana” means the dried leaves and flowers of the marijuana plant that are appropriate for the use of marijuana by an individual.

(b) The term does not include the seeds, stalks, and roots of the plant.”

Section 3. Section 16-12-104, MCA, is amended to read:

“16-12-104. Department responsibilities – licensure. (1) The department shall establish and maintain a registry of persons who receive licenses under this chapter.

(2) (a) The department shall issue the following license types to persons who submit applications meeting the requirements of this chapter:

(i) cultivator license;

(ii) manufacturer license;

(iii) adult-use dispensary license or a medical marijuana dispensary license;

(iv) testing laboratory license.

(v) marijuana transporter license.

(vi) combined-use marijuana license.

(b) The department may establish other license types, subtypes, endorsements, and restrictions it considers necessary for the efficient administration of this chapter.

(3) A licensee may not cultivate hemp or engage in hemp manufacturing at a licensed premises.

(4) A person licensed to cultivate or manufacture marijuana or marijuana products is subject to the provisions contained in the Montana Pesticides Act provided for in Title 80, chapter 8.

(5) The department shall assess applications for licensure or renewal to determine if an applicant, controlling beneficial owner, or a person with a financial interest in the applicant meets any of the criteria established in this chapter for denial of a license.

(6) A license issued pursuant to this chapter must be displayed by the licensee as provided for in rule by the department.

(7) (a) ~~Except as provided in subsection (8), the~~ *The* department shall review the information contained in an application or renewal submitted pursuant to this chapter and shall approve or deny an application:

(i) within 60 days of receiving the application or renewal and all related application materials from a former medical marijuana licensee or an existing licensee under this chapter; and

(ii) within 120 days of receiving the application and all related application materials from a new applicant.

(b) If the department fails to act on a completed application within the time allowed under subsection (7)(a), the department shall:

(i) reduce the cost of the licensing fee for a new applicant for licensure or endorsement or for a licensee seeking renewal of a license by 5% each week that the application is pending; and

(ii) allow a licensee to continue operation until the department takes final action.

(c) The department may not take final action on an application for a license or renewal of a license until the department has completed a satisfactory inspection as required by this chapter and related administrative rules.

(d) The department shall issue a license or endorsement within 5 days of approving an application or renewal.

~~(8)(a) The department may issue a probationary license under subsection (2)(a)(iv) only if:~~

~~(i) an applicant has completed the International Organization for Standardization application for assessment; and~~

~~(ii) there are no pending corrective actions to obtain International Organization for Standardization accreditation.~~

~~(b) A probationary license is valid for 180 days from the date of issue and may be renewed one time:~~

~~(i) if the application is denied after a good faith application effort; or~~

~~(ii) if the application remains pending International Organization for Standardization accreditation.~~

~~(c) If an applicant voluntarily closes the application process after receiving a probationary license, the applicant may not receive a second probationary license for 2 years.~~

(9)(8)(a) Review of a rejection of an application or renewal may be conducted as a contested case hearing before the department's office of dispute resolution pursuant to the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department of revenue concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (9)(b) (8)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision.

~~(10)(9) Licenses issued under this chapter must be renewed annually.~~

~~(11)(10)(a) The department shall provide the names and phone numbers of persons, including the names of controlling beneficial owners, licensed under this chapter and the city, town, or county where licensed premises are located to the public on the department's website. Except as provided in subsection (11)(b) (10)(b), the department may not disclose the physical location or address of a marijuana business.~~

(b) The department may share the physical location or address of a marijuana business with another state agency, political subdivision, and the state fire marshal.

(c) The name of a controlling beneficial owner is not considered confidential information as defined in 2-6-1002.

~~(12)(11) The department may not prohibit a cultivator, manufacturer, or adult-use dispensary licensee operating in compliance with the requirements of this chapter from operating at a shared location with a medical marijuana dispensary.~~

~~(13)~~(12) The department may not adopt rules requiring a consumer to provide a licensee with identifying information other than government-issued identification to determine the consumer's age. A licensee that scans a person's driver's license using an electronic reader to determine the person's age:

(a) may only use data or metadata from the scan determine the person's age;

(b) may not transfer or sell that data or metadata to another party; and

(c) shall permanently delete any data or metadata from the scan within 180 days, unless otherwise provided for in this chapter or by the department.

~~(14)~~(13) (a) Except as provided in subsection ~~(14)(b)~~ (13)(b), licenses issued by the department under this chapter are nontransferable.

(b) A licensee may sell its marijuana business, including live plants, inventory, and material assets, to a person who is licensed by the department under the provisions of this chapter. The department may, in its discretion, issue a temporary license to the acquiring party to facilitate the transfer of the licensee's marijuana business.

~~(15)~~(14) A person who is not a controlling beneficial owner in a licensee may not receive or otherwise obtain an ownership interest in a licensee that results in the person becoming a controlling beneficial owner unless the licensee notifies, in writing, the department of the proposed transaction and the department determines that the person qualifies for ownership under the provisions of this chapter."

Section 4. Section 16-12-125, MCA, is amended to read:

"16-12-125. Hotline – reporting – referrals. (1) The department shall create and maintain a hotline to receive reports of suspected abuse of the provisions of this chapter.

(2) ~~An individual making~~ *A person may submit a complaint must be a resident and shall provide the individual's name, street address, and phone number to the department alleging a violation of this chapter and specifying the grounds for the complaint.*

(3) The department ~~shall~~ *may* provide a copy of the complaint to the person or licensee that is the subject of the complaint.

(4) The department may:

(a) investigate reports of suspected abuse of the provisions of this chapter; or

(b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring.

(5) *Complaints submitted to the department are confidential and not subject to public disclosure unless or until authorized by a district court on a written finding that the demands of individual privacy do not clearly exceed the merits of public disclosure or are confidential criminal justice information pursuant to Title 44, chapter 5.*

~~(5)~~(6) The department shall make available to the public complaints about violations of 16-12-117(3), including:

(a) information regarding the types of businesses or products being reported; and

(b) any disciplinary action taken against a person in violation of 16-12-117(3).

~~(6)~~(7) The department reports made to the legislature pursuant to 16-12-110 must include the number of investigations and complaints the department referred to law enforcement and the complaints' disposition."

Section 5. Section 16-12-203, MCA, is amended to read:

"16-12-203. Licensing types – requirements – limitations – activities. (1) (a) Subject to subsection (3) and this subsection (1), the department shall issue a license to or renew a license for a person who is

applying to be a cultivator, manufacturer, medical marijuana dispensary, adult-use dispensary, or testing laboratory if the person submits to the department:

(i) the person's name, date of birth, and street address on a form prescribed by the department;

(ii) proof that the natural person having day-to-day operational control over the business is a Montana resident;

(iii) a statement, on a form prescribed by the department, that the person:

(A) will not divert to any other person the marijuana that the person cultivates or the marijuana products that the person manufactures for consumers or registered cardholders, unless the marijuana or marijuana products are sold to another licensee as allowed under this section and by rules of the department; and

(B) has no pending citations for violations occurring under this chapter or the marijuana laws of any other state or jurisdiction;

(iv) the street address of the location at which marijuana, marijuana concentrates, or marijuana products will be cultivated, manufactured, sold, or tested; and

(v) proof that the applicant has source of funding from a suitable source. A lender or other source of money or credit may be found unsuitable if the source:

(A) is a person whose prior financial or other activities or criminal record:

(B) poses a threat to the public interest of the state;

(C) poses a threat to the effective regulation and control of marijuana and marijuana products; or

(D) creates a danger of illegal practices, methods, or activities in the conduct of the licensed business.

(b) If the person to be licensed consists of more than one individual, the names of all owners must be submitted along with the fingerprints and date of birth of each owner having at least a 5% controlling beneficial ownership interest.

(c) Nonindividuals who apply for the issuance of a marijuana business license shall disclose to the department the following:

(i) a complete and accurate organizational chart of the marijuana business disclosing the identity and ownership percentages of its controlling beneficial owners;

(ii) whether the applicant has ever filed for bankruptcy;

(iii) whether the applicant has ever been a party to a lawsuit, either as a plaintiff or defendant;

(iv) any financial interests held by the applicant in another marijuana business in any state;

(v) if the controlling beneficial owner is a publicly traded corporation, the controlling beneficial owners' managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's interest in the controlling beneficial owner;

(vi) if the controlling beneficial owner is not a publicly traded corporation, the controlling beneficial owner's managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's interest in the controlling beneficial owner;

(vii) if the controlling beneficial owner is a natural person, the natural person's identifying information;

(viii) a person that is both a passive beneficial owner and a financial interest holder in the marijuana business; and

(ix) any financial interest holder that holds two or more financial interests in the marijuana business or that is contributing over 50% of the operating capital of the marijuana business.

(d) The department may request that the marijuana business disclose each beneficial owner and affiliate of an applicant or marijuana business or each controlling beneficial owner that is not a publicly traded corporation.

(e) An applicant or marijuana business that is not a publicly traded corporation shall affirm under penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest holders, and qualified institutional investors are not persons prohibited pursuant to this section or otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department.

(f) An applicant or marijuana business that is a publicly traded corporation shall affirm under penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest holders, and qualified institutional investors are not persons prohibited pursuant to this section, or otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department.

(g) This section does not restrict the department's ability to reasonably request information or records at renewal or as part of any other investigation following initial licensure of a marijuana business.

(h) The department shall furnish to the economic affairs interim committee, on request, a list containing the names of all controlling beneficial owners for each licensee.

(2) The department may not license a person under this chapter if the person or an owner, including a person with a financial interest:

(a) has a felony conviction or a conviction for a drug offense, including but not limited to, a conviction for a violation of any marijuana law in any other state within the past 5 years and, after an investigation, the department finds that the applicant has not been sufficiently rehabilitated as to warrant the public trust;

(b) is in the custody of or under the supervision of the department of corrections or a youth court;

(c) has been convicted of a violation under 16-12-302 or of making a fraudulent representation under the former medical marijuana program administered by the department of public health and human services;

(d) is under 21 years of age;

(e) has failed to:

(i) pay any taxes, interest, penalties, or judgments due to a government agency;

(ii) comply with any provisions of Title 15 or Title 16, including the failure to file any tax return or report;

(iii) stay out of default on a government-issued student loan;

(iv) pay child support; or

(v) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency;

(f) has had a license issued under this chapter or a former medical marijuana license revoked within 3 years of the date of the application; or

(g) has resided in Montana for less than 1 year.

(3) Marijuana for use pursuant to this chapter must be cultivated and manufactured in Montana unless federal law otherwise allows for the interstate distribution of marijuana.

(4) Except as provided in 16-12-209, a cultivator, manufacturer, medical marijuana dispensary, or adult-use dispensary shall:

(a) prior to selling marijuana or marijuana products, submit samples to a testing laboratory pursuant to this chapter and administrative rules;

(b) allow the department to collect samples of marijuana or marijuana products during inspections of licensed premises for testing as provided by the department by rule; and

(c) participate as required by the department by rule in a seed-to-sale tracking system established by the department pursuant to 16-12-105.

(5) (a) A person licensed under this section may cultivate marijuana and manufacture marijuana products for use by consumers or registered cardholders only at one of the following locations:

(i) a property that is owned by the licensee; or

(ii) with written permission of the property owner filed with the department when applying for ~~or renewing~~ a license, a property that is rented or leased by the licensee.

(b) No portion of the property used for cultivation of marijuana or manufacture of marijuana products or marijuana concentrate may be shared with or rented or leased to another licensee.

(c) Marijuana or marijuana products may not be consumed on the premises of any licensed premises.

(6) A cultivator licensed under this chapter in accordance with licensing requirements set forth in this chapter and rules adopted by the department:

(a) may operate adult-use dispensaries;

(b) may engage in manufacturing; and

(c) may not engage in outdoor cultivation of marijuana, except as provided in 16-12-223(6).

(7) ~~A cultivator or manufacturer licensee:~~

(a) ~~may contract or otherwise arrange for another party that is licensed licensee to process, cultivate, or sell marijuana and marijuana products a cultivator's or manufacturer's marijuana into marijuana products and return the marijuana products to the cultivator or manufacturer for sale; and~~

~~(b) except as allowed pursuant to 16-12-207, may not open a dispensary before obtaining the required license and before the department has completed the inspection required under this chapter unless permitted to do so pursuant to 16-12-207.~~

(b) may contract or otherwise engage a third party to perform work on behalf of any aspect of a marijuana business. All third-party relationships must be disclosed to the department before a third party can begin performing work on behalf of any aspect of the marijuana business. An individual performing work for any aspect of a marijuana business must secure a worker permit pursuant to 16-12-226. A licensee is responsible for ensuring a third party is compliant with marijuana laws and is liable for any violations."

Section 6. Section 16-12-221, MCA, is amended to read:

"16-12-221. Manufacturer – requirements – limitations – fees. (1) A person licensed as a manufacturer shall:

(a) prepare marijuana products at a licensed premises exclusively; and

(b) use equipment that is used exclusively for the manufacture and preparation of marijuana products.

(2) All licensed premises on which marijuana products are manufactured must meet any applicable standards set by a local board of health for a retail food establishment as defined in 50-50-102.

(3) An applicant for a manufacturer license shall demonstrate that the local government approval provisions contained in 16-12-301 have been satisfied in the jurisdiction where each proposed manufacturing facility is located if a proposed facility would be located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(4) When evaluating an initial or renewal application, the department shall evaluate each proposed manufacturing facility for compliance with the provisions of 16-12-207 and 16-12-210.

(5) Marijuana products may not be considered a food or drug for the purposes of Title 50, chapter 31.

(6) (a) The department shall charge a manufacturer license fee for an initial application and at each renewal. The license fee is based on the *total* amount of concentrate produced ~~at a manufacturing facility under the manufacturer's license~~ on a monthly basis. The annual fees for licensees are:

(i) \$5,000 for ~~each manufacturing facility~~ *a manufacturer licensee* that produces, on a monthly basis, less than 1 pound of concentrate and up to 10 pounds of concentrate;

(ii) \$10,000 for ~~each manufacturing facility~~ *a manufacturer licensee* that produces, on a monthly basis, between 10 pounds of concentrate and 15 pounds of concentrate; and

(iii) \$20,000 for ~~each manufacturing facility~~ *a manufacturer licensee* that produces, on a monthly basis, 15 pounds or more of concentrate.

(b) The department may create additional fee levels as necessary.

(c) A manufacturer may apply to advance to the next licensing level in conjunction with a regular renewal application by demonstrating that its proposed additional or expanded manufacturing facility or facilities are located in a jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or that they are located in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election.

(7) The department may adopt rules:

(a) for the inspection of proposed manufacturing facilities;

(b) for investigating the amount of concentrate produced at a manufacturing facility; and

(c) for investigating owners or applicants for a determination of beneficial ownership or financial interest."

Section 7. Section 16-12-224, MCA, is amended to read:

"16-12-224. Licensing of dispensaries. (1) Except as provided in 16-12-201(2), an applicant for a dispensary license shall demonstrate that the local government approval provisions in 16-12-301 have been satisfied in the jurisdiction where each proposed dispensary is located if the proposed dispensary would be located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(2) When evaluating an initial or renewal application, the department shall evaluate each proposed dispensary for compliance with the provisions of 16-12-207 and 16-12-210.

(3) An adult-use dispensary licensee may operate at a shared location with a medical marijuana dispensary if the adult-use dispensary and medical marijuana dispensary are owned by the same person.

(4) A medical marijuana dispensary is authorized to sell exclusively to registered cardholders marijuana, marijuana products, and live marijuana plants.

(5) An adult-use dispensary is authorized to sell marijuana, marijuana products, and live marijuana plants to consumers or registered cardholders.

(6) (a) The department shall charge a dispensary license fee for an initial application and at each renewal.

(b) The dispensary license fee is \$5,000 for the first location that a licensee operates as an adult-use dispensary or a medical marijuana dispensary. The dispensary license fee increases cumulatively by \$5,000 for each additional location under the same license.

(7) The department may adopt rules:

(a) for inspection of proposed dispensaries;

(b) for investigating owners or applicants for a determination of financial interest; and

(c) establishing or limiting the THC content of the marijuana or marijuana products that may be sold at an adult-use dispensary or medical marijuana dispensary.

(8) (a) Marijuana and marijuana products sold at a dispensary are regulated and sold on the basis of the concentration of THC in the products and not by weight.

(b) Except as provided in subsection (8)(d), for purposes of this chapter, a single package is limited to:

(i) for marijuana sold as flower, 1 ounce of usable marijuana. The total potential psychoactive THC of marijuana flower may not exceed 35%.

(ii) for a marijuana product sold as a capsule, no more than 100 milligrams of THC per capsule and no more than 800 milligrams of THC per package.

(iii) for a marijuana product sold as a tincture, no more than 800 milligrams of THC;

(iv) for a marijuana product sold as an edible or a food product, no more than 100 milligrams of THC. A single serving of an edible marijuana product may not exceed 10 milligrams of THC.

(v) for a marijuana product sold as a topical product, a concentration of no more than 6% THC and no more than 800 milligrams of THC per package;

(vi) for a marijuana product sold as a suppository or transdermal patch, no more than 100 milligrams of THC per suppository or transdermal patch and no more than 800 milligrams of THC per package; and

(vii) for any other marijuana product, no more than 800 milligrams of THC.

(c) There may be a deviation of 10% above or below the allowed amount under ~~subsection (8)(b)(iv)~~ *subsections (8)(b)(ii) through (8)(b)(vii)*.

(d) A dispensary may sell marijuana or marijuana products having higher THC potency levels than described in subsection (8) to registered cardholders.

(9) A licensee or employee is prohibited from conducting a transaction that would result in a consumer or registered cardholder exceeding the personal possession amounts set forth in 16-12-106 and 16-12-515."

Section 8. Effective dates. (1) Except as provided in subsection (2), [this act] is effective October 1, 2025.

(2) [Sections 1 and 9] and this section are effective on passage and approval.

Section 9. Applicability. [Section 1] applies to tax quarters beginning after June 30, 2025.

Approved May 8, 2025

CHAPTER NO. 551

[SB 91]

AN ACT REQUIRING DRIVER'S LICENSES AND IDENTIFICATION CARDS TO DISPLAY CITIZENSHIP STATUS; AMENDING SECTIONS 61-5-111 AND 61-12-501, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-5-111, MCA, is amended to read:

“61-5-111. Contents of driver's license, renewal, license expirations, license replacements, grace period, and fees for licenses, permits, and endorsements – notice of expiration. (1) (a) The department may appoint county treasurers and other qualified officers to act as its agents for the sale of driver's license receipts. In areas in which the department provides driver licensing services 3 days or more a week, the department is responsible for sale of receipts and may appoint an agent to sell receipts.

(b) The department may enter into an authorized agent agreement with the county treasurer of any county in which the department no longer maintains a driver examination station for the ~~purpose~~ *purposes* of providing driver's license renewal services.

(2) (a) The department, ~~upon~~ *on* receipt of payment of the fees specified in this section, shall issue a driver's license to each qualifying applicant. The license must contain:

(i) a full-face photograph of the licensee in the size and form prescribed by the department;

(ii) a distinguishing number issued to the licensee;

(iii) the full legal name, date of birth, and Montana residence address unless the licensee requests use of the mailing address, except that the Montana residence address must be used for a REAL ID-compliant driver's license unless authorized by department rule;

(iv) a brief description of the licensee;

(v) either the licensee's customary manual signature or a reproduction of the licensee's customary manual signature; ~~and~~

(vi) if the applicant qualifies under subsection (7), indication of the applicant's status as a veteran;; *and*

(vii) *on or after January 1, 2026, if the applicant is a citizen of the United States, an image of an eagle to signify the licensee's status as a United States citizen.*

(b) The department may not use the licensee's social security number as the distinguishing number. A license is not valid until it is signed by the licensee.

(3) (a) When a person applies for renewal of a driver's license, the department shall conduct a records check in accordance with 61-5-110(1) to determine the applicant's eligibility status and shall test the applicant's eyesight. The department may also require the applicant to submit to a knowledge and road or skills test if:

(i) the renewal applicant has a physical or mental disability, limitation, or condition that impairs, or may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; and

(ii) the expired or expiring license does not include adaptive equipment or operational restrictions appropriate to the applicant's functional abilities; or

(iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring license.

(b) In the case of a commercial driver's license, the department shall, if the information was not provided in a prior licensing cycle, require the renewal applicant to provide the name of each jurisdiction in which the applicant was previously licensed to drive any type of motor vehicle during the 10-year period immediately preceding the date of the renewal application and may also require that the applicant successfully complete a written examination as required by federal regulations.

(c) A person is considered to have applied for renewal of a Montana driver's license if the application is made within 6 months before or 1 year after the expiration of the person's license or if the person has applied for a REAL ID-compliant driver's license pursuant to 61-5-129. Except as provided in subsection (3)(d), a person seeking to renew a driver's license shall appear in person at a Montana driver's examination station.

(d) (i) Except as provided in subsections (3)(d)(iii) through (3)(d)(v), a person may renew a driver's license by mail or online.

(ii) An applicant who renews a driver's license by mail or online shall submit a completed application and the fees required for renewal.

(iii) If the department does not have a digitized photograph and signature record of the renewal applicant from the expiring license, then the renewal applicant shall apply in person.

(iv) Except as provided in subsections (4)(b) and (4)(c), the term of a license renewed by mail or online is 12 years for a driver's license or 8 years for a REAL ID-compliant driver's license.

(v) The department may not renew a license by mail or online if:

(A) the records check conducted in accordance with 61-5-110(1) shows an ineligible license status for the applicant;

(B) the applicant holds a commercial driver's license with a hazardous materials endorsement, the retention of which requires additional testing and a security threat assessment under 49 CFR, part 1572;

(C) the applicant seeks a change of address, a change of date of birth, or a name change; or

(D) the applicant's license:

(I) has been expired for more than 1 year; or

(II) except as provided in subsection (3)(f), was renewed by mail or online at the time of the applicant's previous renewal.

(e) A renewal applicant who is stationed outside Montana on active military duty may renew the license by mail or online as long as the applicant is on active military duty.

(f) The spouse or a dependent of a renewal applicant who is stationed outside Montana on active military duty may renew the applicant's license by mail or online for one additional consecutive term following a renewal by mail or online.

(g) The department shall send electronically or mail a driver's license renewal notice no earlier than 120 days and no later than 30 days prior to the expiration date of a driver's license. The department shall send the notice to the licensee's Montana mailing address shown on the driver's license or, if requested by the licensee, provide the notice using an authorized method of electronic delivery, or both.

(4) (a) Except as provided in subsections (4)(b) through (4)(e), a license expires on the anniversary of the licensee's birthday 12 years or less after the date of issue or on the licensee's 75th birthday, whichever occurs first.

(b) A license issued to a person who is 75 years of age or older expires on the anniversary of the licensee's birthday 4 years or less after the date of issue.

(c) A license issued to a person who is under 21 years of age expires on the licensee's 21st birthday.

(d) (i) Except as provided in subsection (4)(d)(ii), a commercial driver's license expires on the anniversary of the licensee's birthday 4 years or less after the date of issue.

(ii) When a person obtains a Montana commercial driver's license with a hazardous materials endorsement after surrendering a comparable commercial driver's license with a hazardous materials endorsement from another licensing jurisdiction, the license expires on the anniversary of the licensee's birthday 4 years or less after the date of the issue of the surrendered license if, as reported in the commercial driver's license information system, a security threat assessment was performed on the person as a condition of issuance of the surrendered license.

(e) A license issued to a person who is a foreign national whose presence in the United States is temporarily authorized under federal law expires, as determined by the department, no later than the expiration date of the official document issued to the person by the bureau of citizenship and immigration services of the department of homeland security authorizing the person's presence in the United States.

(5) When the department issues a driver's license to a person under 18 years of age, the license must be clearly marked with a notation that conveys the restrictions imposed under 61-5-133.

(6) (a) ~~Upon~~ *On* application for a driver's license or commercial driver's license and any combination of the specified endorsements, the following fees must be paid:

(i) driver's license, except a commercial driver's license -- \$5 a year or fraction of a year;

(ii) motorcycle endorsement -- 50 cents a year or fraction of a year;

(iii) commercial driver's license:

(A) interstate -- \$10 a year or fraction of a year; or

(B) intrastate -- \$8.50 a year or fraction of a year.

(b) A renewal notice for either a driver's license or a commercial driver's license is 50 cents.

(7) (a) ~~Upon~~ *On* receiving a request from a person whose status as a veteran has been verified by the department of military affairs pursuant to 10-2-1301 and ~~upon~~ *on* receiving the information and fees required in this part, the department shall include the word "veteran" on the face of the license.

(b) After a person's status as a veteran is denoted on a driver's license, the department may not require further documentation of that status from the holder of the license ~~upon~~ *on* subsequent renewal or replacement.

(8) (a) Except as provided in subsection (8)(b), an applicant may request a replacement driver's license online or by mail.

(b) If the department does not have a digitized photograph and signature record of the applicant, the applicant shall apply in person.

(c) The term of the replacement license must be the term of the applicant's current driver's license.

(9) (a) An applicant may request an expedited delivery service for a driver's license or identification card. The department shall set a fee for expedited delivery based on the cost of providing this service.

(b) The fees for expedited delivery must be deposited in the motor vehicle division administration account established in 61-3-112 and used for the purposes of expediting delivery, including actual costs for delivery, personnel, and related technology."

Section 2. Section 61-12-501, MCA, is amended to read:

“61-12-501. Authority of department to issue identification cards – lawful presence verification. (1) The department may issue an identification card to any person who maintains a residence in this state and whose presence in the United States is authorized under federal law.

(2) *On or after January 1, 2026, an identification card issued pursuant to this section to a citizen of the United States must display an image of an eagle to signify the licensee’s status as a United States citizen.*

(2)(3) When an applicant who is not a citizen of the United States applies for an identification card, the department shall verify that the applicant is lawfully present in the United States by using the federal systematic alien verification for entitlements program or any other verification program approved by the federal government.

(3)(4) A person may only have one nonvoided driver’s license or identification card issued by the department at any time.”

Section 3. Legislative intent. It is the intent of the legislature that the agency implements the provisions of [this act] within existing resources for the design that displays citizenship status.

Section 4. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 5. Applicability. [This act] applies to a driver’s license or identification card issued on or after January 1, 2026.

Approved May 8, 2025

CHAPTER NO. 552

[SB 95]

AN ACT ALLOCATING MONEY FOR SUICIDE PREVENTION EFFORTS FOR VETERANS AND SERVICE MEMBERS; ESTABLISHING PURPOSES FOR USE OF THE MONEY; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Allocation. (1) There is allocated \$300,000 from the state special revenue account established in 17-6-603 to the department of public health and human services for the biennium beginning July 1, 2025, for grants made pursuant to 53-21-1101 and 53-21-1111 for suicide prevention activities.

(2) The allocation must be used to:

(a) implement strategies that are developed, with assistance from the U.S. department of veterans affairs and the federal substance abuse and mental health services administration, as part of the Montana department of public health and human services’ campaign to prevent suicide among service members, veterans, and their families;

(b) identify and screen service members, veterans, and their families for suicide risk by:

(i) establishing screening standards for the identification of suicide risk among service members, veterans, and their families;

(ii) educating providers and peers involved in the intake process; and

(iii) establishing a review process for identification of service members, veterans, and their families in mortality and data review;

(c) promote connectedness and improve care transitions for service members, veterans, and their families by:

(i) increasing peers who are trained in suicide prevention to work in connecting those individuals to services; and

(ii) developing collaborative policies and protocols across military and civilian agencies to improve continuity of care; and

(d) increase lethal means safety and safety planning by:

(i) implementing a safe storage campaign statewide;

(ii) conducting statewide lethal means safety training events; and

(iii) convening a working group to support adoption of clinical practice guidelines for safety planning.

(3) The department shall report on the results of the activities described in this section as part of its annual performance report required under 2-12-105.

Section 2. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 3. Effective date. [This act] is effective July 1, 2025.

Section 4. Termination. [This act] terminates June 30, 2027.

Approved May 8, 2025

CHAPTER NO. 553

[SB 106]

AN ACT REVISING LAWS RELATED TO THE USE OF AIRCRAFT WHILE HUNTING; AND AMENDING SECTIONS 87-3-126 AND 87-6-208, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-3-126, MCA, is amended to read:

"87-3-126. Use of aircraft or helicopter-- authority to issue permits and adopt rules. (1) ~~An aircraft or helicopter~~ A manned or unmanned aircraft may be used for the purpose of herding, driving, or hazing wild animals damaging private property or crops on the property in question pursuant to a permit issued by the department.

(2) The commission shall adopt rules for the issuance of the permit. The permit may be conditioned to address individual circumstances of each application for a permit.

(3) ~~The~~ The department ~~may not shall~~ issue permits *except* during any legal *general or regular* hunting season for the species for which a permit was requested.

(4) The permitting program must comply with requirements of federal law for the activity."

Section 2. Section 87-6-208, MCA, is amended to read:

"87-6-208. Unlawful use of aircraft. (1) Except as provided in 87-3-126, a person may not:

(a) kill, take, or shoot at any game bird, game animal, or fur-bearing animal from an aircraft;

(b) use an aircraft:

(i) to spot or locate any game animal for the purpose of hunting ~~that animal during the same calendar day within 24 hours after utilizing an aircraft; or~~

(ii) ~~for the purpose of concentrating, pursuing, driving, rallying, or stirring up any to concentrate, pursue, drive, rally, or stir up a game bird, migratory bird, game animal, or fur-bearing animal; or~~

(iii) *to intentionally interfere with the hunting of a game bird, game animal, or fur-bearing animal, including operating an aircraft in a manner that disturbs or otherwise affects the behavior of a game bird, game animal, or fur-bearing animal;*

(c) land an aircraft in violation of state or federal land use travel plans while pursuing a game bird, game animal, or fur-bearing animal;

(d) land an aircraft on private property without written permission while pursuing a game bird, game animal, or fur-bearing animal; or

~~(e) if in or using an aircraft, spot spot or locate any a game animal or fur-bearing animal and communicate the location of the game animal or fur-bearing animal to any person as an aid to hunting;~~

~~(i) while in, using, or operating an aircraft; or~~

~~(ii) within 24 hours after utilizing an aircraft.:~~

~~(i) on the ground by means of any air-to-ground communication signal or other device as an aid to hunting or pursuing wildlife; or~~

~~(ii) within the same calendar day after using the aircraft.~~

(2) The provisions of this section do not apply:

(a) during emergency situations;

(b) when search and rescue operations are being conducted; ~~or~~

(c) for predator control as permitted by the department of livestock; ~~or~~

(d) *when supporting an agricultural operation.*

(3) The following penalties apply for a violation of this section:

(a) Unless otherwise provided in this subsection (3), a person convicted of a violation of this section shall be fined not less than \$300 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(b) If a person is convicted or forfeits bond or bail after being charged with unlawful use of an aircraft to kill or take a deer, elk, antelope, mountain lion, mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear, the person shall be fined not less than \$500 or more than \$2,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

(c) If a person is convicted or forfeits bond or bail after being charged with unlawful use of an aircraft to kill or take a fur-bearing animal, the person shall be fined not less than \$100 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

(4) As used in this section, "aircraft" has the meaning provided in 87-6-101."

Approved May 8, 2025

CHAPTER NO. 554

[SB 117]

AN ACT GENERALLY REVISING PROPERTY TAXES; REVISING GOVERNMENTAL ENTITY LIMITS ON PROPERTY TAX INCREASES; INCREASING THE RATE OF INFLATION LIMITATION IMPOSED ON

GOVERNMENTAL ENTITIES FOR CALCULATING PROPERTY TAX LEVIES; PROVIDING THAT A PORTION OF NEWLY TAXABLE PROPERTY IS SUBJECT TO THE MILL LEVY LIMITATION CALCULATION; PROVIDING THAT A LOCAL GOVERNMENT MAY CREATE A LARGE TAXPAYER RESERVE ACCOUNT; AMENDING SECTION 15-10-420, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Local government large taxpayer reserve account – expenditure restrictions. (1) The governing body of a city, county, or consolidated city-county may establish a large taxpayer reserve account.

(2) A city, county, or consolidated city-county that establishes an account pursuant to this section shall deposit annually 10% of revenue generated from newly taxable property in classes other than class four in the large taxpayer reserve account.

(3) A city, county, or consolidated city-county may use a portion of the revenue from newly taxable property generated under subsection (2) to offset any required payment to the department for technology enhancing the assessment of newly taxable property.

(4) Subject to a payment made pursuant to subsection (3), money deposited in the account by the city, county, or consolidated city-county must remain in the account and may not be appropriated by the governing body until a large taxpayer has permanently ceased operations or experienced a significant decrease in taxable value.

(5) If the circumstances described in subsection (4) occur, the governing body of the city, county, or consolidated city-county shall use the funds in the account to:

(a) pay for outstanding capital project bonds or other expenses incurred prior to the cessation of operations or a significant decrease in taxable value;

(b) for up to 10 years, decrease mill levies of the city, county, or consolidated city-county that are directly impacted by the cessation of operations or a significant decrease in taxable value;

(c) attract new industry to the impact area;

(d) provide cash incentives for expanding the employment base of the area impacted by the cessation of operations or a significant decrease in taxable value; or

(e) invest in infrastructure directly related to new development or housing.

(6) Except as provided in subsection (5)(b), money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(7) (a) Except as provided in subsection (7)(b), money in the account must be invested as provided by law. Interest and income from the investment of funds in the account must be credited to the account.

(b) The city, county, or consolidated city-county may use investment earnings on the account not subject to subsection (3) for the purposes provided in subsection (5).

(8) As used in this section, the following definitions apply:

(a) “Large taxpayer” means an individual or entity with taxable value for all property owned by the individual or entity within the city, county, or consolidated city-county that places the individual or entity among the 20% of taxpayers with the largest taxable value in the city, county, or consolidated city-county.

(b) “Significant decrease in taxable value” means a decrease in taxable value for property classes other than class four property that equals 25% or more of the prior year’s taxable value.

Section 2. Section 15-10-420, MCA, is amended to read:

“15-10-420. Procedure for calculating levy. (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus ~~one-half~~ of the average rate of inflation for the prior 3 years, *not to exceed 4%.* ~~The~~ The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less 75% of the current year's newly taxable value *from class four property and the applicable amount pursuant to subsection (1)(b) of newly taxable value from classes other than class one, class two, and class four,* plus ~~one-half~~ of the average rate of inflation for the prior 3 years.

(b) *For the purposes of subsection (1)(a), the governmental entity may include the following percentages of newly taxable value from classes other than class one, class two, and class four:*

(i) *100% of the taxable value of class eight property that receives an abatement under 15-6-138(4)(b);*

(ii) *100% of the taxable value of property that receives a new or expanding industry abatement under 15-24-1402 or a historic property abatement under 15-24-1603 from the time the abatement is granted through completion of construction; and*

(iii) *50% if the governmental entity creates a large taxpayer reserve account and meets the deposit requirement of [section 1(2)]; or*

(iv) *40% if the governmental entity does not create a large taxpayer reserve account or does not meet the deposit requirement of [section 1(2)].*

(b)(c) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c)(d) *For the purposes of subsection (1)(a), the department shall calculate ~~one-half~~ of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.*

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly taxable property.

(3) (a) *For the purposes of this section, newly taxable property includes:*

(i) *annexation of real property and improvements into a taxing unit;*

(ii) *construction, expansion, or remodeling of improvements;*

(iii) *transfer of property into a taxing unit;*

(iv) *subdivision of real property; and*

(v) *transfer of property from tax-exempt to taxable status.*

(b) *Newly taxable property does not include an increase in value that arises because of an increase in the incremental value within a tax increment financing district.*

(4) (a) *For the purposes of subsection (1), the taxable value of newly taxable property includes the release of taxable value from the incremental taxable value of a tax increment financing district because of:*

(i) *a change in the boundary of a tax increment financing district;*

(ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

(iii) the termination of a tax increment financing district.

(b) If a tax increment financing district terminates prior to the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment financing district terminates. If a tax increment financing district terminates after the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

(c) For the ~~purpose~~ *purposes* of subsection (3)(a)(ii), the value of newly taxable class four property that was constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current year market value of that property less the previous year market value of that property.

(d) For the ~~purpose~~ *purposes* of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real property that results in the property being taxable as class four property under 15-6-134 or as nonqualified agricultural land as described in 15-6-133(1)(c).

(5) Subject to subsection (8), subsection (1)(a) does not apply to:

(a) school district levies established in Title 20; or

(b) a mill levy imposed for a newly created regional resource authority.

(6) For the purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:

(a) may increase the number of mills to account for a decrease in reimbursements; and

(b) may not increase the number of mills to account for a loss of tax base because of legislative action that is reimbursed under the provisions of 15-1-121(7).

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for the purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill.

(9) (a) The provisions of subsection (1) do not prevent or restrict:

(i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

(ii) a levy to repay taxes paid under protest as provided in 15-1-402;

(iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

(iv) a levy for the support of a study commission under 7-3-184;

(v) a levy for the support of a newly established regional resource authority;

(vi) the portion that is the amount in excess of the base contribution of a governmental entity's property tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703;

(vii) a levy for reimbursing a county for costs incurred in transferring property records to an adjoining county under 7-2-2807 upon relocation of a county boundary;

(viii) a levy used to fund the sheriffs' retirement system under 19-7-404(3)(b);
or

(ix) a governmental entity from levying mills for the support of an airport authority in existence prior to May 7, 2019, regardless of the amount of the levy imposed for the support of the airport authority in the past. The levy

under this subsection (9)(a)(ix) is limited to the amount in the resolution creating the authority.

(b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

(10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

(11) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable value in a governmental unit.”

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 7, chapter 6, part 6, and the provisions of Title 7, chapter 6, part 6, apply to [section 1].

Section 4. Applicability. [This act] applies to property tax years beginning after December 31, 2025.

Approved May 8, 2025

CHAPTER NO. 555

[SB 121]

AN ACT GENERALLY REVISING THE MONTANA LAND USE PLANNING ACT; CLARIFYING THAT A LOCAL GOVERNMENT MAY MAKE DECISIONS ON DEVELOPMENT APPLICATIONS; CLARIFYING PUBLIC NOTICE REQUIREMENTS; PROVIDING ADDITIONAL OPPORTUNITY FOR PUBLIC COMMENT FOR PROPOSED DEVELOPMENTS; ALLOWING A CITY TO RETAIN EXTRATERRITORIAL ZONING AUTHORITY; AMENDING LAND DIVISIONS EXCLUDED FROM SUBDIVISION REVIEW; CLARIFYING THE NOTICE OF ADEQUATE STORMWATER DRAINAGE AND MUNICIPAL FACILITIES FOR CERTAIN CITIES; ALLOWING A CITY TO REMAIN A MEMBER ON CERTAIN PLANNING BOARDS; ALLOWING FOR A PUBLIC HEARING BEFORE A PLANNING COMMISSION HEARS AN APPEAL; PROVIDING DEFINITIONS; AMENDING SECTIONS 2-3-102, 2-3-104, 7-2-4734, 76-2-310, 76-4-125, 76-4-127, 76-25-103, 76-25-104, 76-25-106, 76-25-301, 76-25-305, 76-25-408, 76-25-410, AND 76-25-503, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-3-102, MCA, is amended to read:

“2-3-102. Definitions. As used in this part, the following definitions apply:

(1) “Agency” means any board, bureau, commission, department, authority, or officer of the state or local government authorized by law to make rules, determine contested cases, *make a decision on development applications*, or enter into contracts except:

(a) the legislature and any branch, committee, or officer thereof;

(b) the judicial branches and any committee or officer thereof;

(c) the governor, except that an agency is not exempt because the governor has been designated as a member thereof; or

(d) the state military establishment and agencies concerned with civil defense and recovery from hostile attack.

(2) "Agency action" means the whole or a part of the adoption of an agency rule, the issuance of a license or order, the award of a contract, *the approval of a development application*, or the equivalent or denial thereof of any of these.

(3) "*Development application*" means a formal request submitted to a local government entity to obtain approval for a development proposal pursuant to Title 76, chapter 25, part 3 or 4.

(3)(4) "Rule" means any agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule but does not include:

(a) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public; or

(b) declaratory rulings as to the applicability of any statutory provision or of any rule."

Section 2. Section 2-3-104, MCA, is amended to read:

"2-3-104. Requirements for compliance with notice provisions. An agency ~~shall be~~ is considered to have complied with the notice provisions of 2-3-103 if:

(1) an environmental impact statement is prepared and distributed as required by the Montana Environmental Policy Act, Title 75, chapter 1;

(2) a proceeding is held as required by the Montana Administrative Procedure Act;

(3) *an agency adopts and implements the public participation plan required in 76-25-106 for the purposes of agency actions taken in accordance with Title 76, chapter 25;*

(3)(4) a public hearing, after appropriate notice is given, is held pursuant to any other provision of state law or a local ordinance or resolution; or

(4)(5) a newspaper of general circulation within the area to be affected by a decision of significant interest to the public has carried a news story or advertisement concerning the decision sufficiently prior to a final decision to permit public comment on the matter."

Section 3. Section 7-2-4734, MCA, is amended to read:

"7-2-4734. Standards to be met before annexation can occur. A municipal governing body may extend the municipal corporate limits to include any area that meets the following standards:

(1) The area must be contiguous to the municipality's boundaries at the time the annexation proceeding is begun.

(2) No part of the area may be included within the boundary of another incorporated municipality.

(3) The area must be included within and the proposed annexation must conform to a growth policy adopted pursuant to Title 76, chapter 1, *or a land use plan adopted pursuant to Title 76, chapter 25.*

(4) (a) If fire protection services in the area to be annexed have been provided by a fire district organized under Title 7, chapter 33, part 21, the plan must:

(i) include provisions for coordinating the transfer of fire protection services to the municipality and compensating the district, if necessary, for equipment and district expenses; or

(ii) describe the municipality's plans to annex to the rural fire district pursuant to 7-33-4115.

(b) Upon transfer of fire protection services to a municipality under subsection (4)(a)(i), the existing boundaries of a rural fire district may be altered or the fire district may be dissolved as provided in 7-33-2401.”

Section 4. Section 76-2-310, MCA, is amended to read:

“76-2-310. Extension of municipal zoning and subdivision regulations beyond municipal boundaries – termination of authority for extension. (1) ~~Except as provided in 76-2-312 and except in locations where a county has adopted zoning or subdivision regulations, a~~ A city or town council or other legislative body that has adopted a growth policy pursuant to chapter 1 ~~or a land use plan pursuant to chapter 25~~ for the area to be affected by the regulations may extend the application of its zoning or subdivision regulations beyond its limits in any direction subject to the following limits:

(a) up to 3 miles beyond the limits of a city of the first class as defined in 7-1-4111;

(b) up to 2 miles beyond the limits of a city of the second class; and

(c) up to 1 mile beyond the limits of a city or town of the third class.

(2) (a) *The authority granted to a city or town to apply zoning beyond its limits pursuant to subsection (1) is terminated when the county in which the city or town is located adopts zoning regulations for the area pursuant to Title 76, chapter 2.*

(b) *The authority granted to a city or town to apply its subdivision regulations beyond its limits pursuant to subsection (1) is terminated when the county in which the city or town is located adopts subdivision regulations for the area pursuant to Title 76, chapter 3.*

(2)(3) When two or more noncontiguous cities have boundaries so near to one another as to create an area of potential conflict in the event that all cities concerned should exercise the full powers conferred by 76-2-302, 76-2-311, and this section, then the extension of zoning or subdivision regulations, or both, by these cities must terminate at a boundary line agreed upon by the cities.”

Section 5. Section 76-4-125, MCA, is amended to read:

“76-4-125. Land divisions excluded from review. (1) A subdivision excluded from the provisions of chapter 3 ~~or chapter 25~~ must be submitted for review according to the provisions of this part, except that the following divisions or parcels, unless the exclusions are used to evade the provisions of this part, are not subject to review:

(a) the exclusions cited in 76-3-201, ~~and 76-3-207(1)(f), and 76-25-402(1)(a) through (h);~~

(b) divisions made for the purpose of acquiring additional land to become part of an approved parcel, provided that water or sewage disposal facilities may not be constructed on the additional acquired parcel and that the division does not fall within a previously platted or approved subdivision;

(c) divisions made for purposes other than the construction of water supply or sewage or solid waste disposal facilities as the department specifies by rule;

(d) as certified pursuant to 76-4-127:

(i) new divisions subject to review under ~~the Montana Subdivision and Platting Act chapter 3 or chapter 25;~~

(ii) divisions or previously divided parcels recorded with sanitary restrictions; or

(iii) divisions or previously divided parcels of land that are exempt from ~~the Montana Subdivision and Platting Act~~ review under 76-3-203, ~~or 76-3-207(1)(a), (1)(b), (1)(d), (1)(e), or (1)(f), or 76-25-402(1)(i), (1)(m), or (1)(n);~~

(e) subject to the provisions of subsection (2), a remainder of an original tract created by segregating a parcel from the tract for purposes of transfer if:

(i) the remainder is served by a public or multiple-user sewage system approved before January 1, 1997, pursuant to local regulations or this chapter; or

(ii) the remainder is 1 acre or larger and has an individual sewage system serving a discharge source that was in existence prior to April 29, 1993, and, if required when installed, the system was approved pursuant to local regulations or this chapter; and

(f) the sale of cabin or home sites as provided for and subject to the limitations in 77-2-318(2).

(2) Consistent with the applicable provisions of 50-2-116, a local health officer may require that, prior to the filing of a plat or a certificate of survey subject to review under this part for the parcel to be segregated from the remainder referenced in subsection (1)(e)(ii), the remainder include acreage or features sufficient to accommodate a replacement drainfield.

(3) A previously divided parcel that meets the eligibility criteria for an existing exemption from this part may use the exemption in lieu of obtaining a certificate of subdivision approval if the appropriate document, exemption certificate, certificate of survey, or subdivision plat filed with the county clerk and recorder cites the applicable exemption in its entirety.

(4) At the request of the owner, the original certificate of subdivision approval shall be reissued for a parcel previously approved under this part if:

(a) the parcel was subsequently divided without review and approval under this part; and

(b) the unapproved parcels are aggregated to return to the original divided parcel as originally approved.”

Section 6. Section 76-4-127, MCA, is amended to read:

“76-4-127. Notice of certification that adequate storm water drainage and adequate municipal facilities will be provided. (1) To qualify for the exemption from review set out in 76-4-125(1)(d), the certifying authority shall send notice of certification to the reviewing authority that adequate storm water drainage and adequate municipal facilities will be provided for the subdivision. For a subdivision subject to Title 76, chapter 3 or 25, the certifying authority shall send notice of certification to the reviewing authority prior to final plat approval.

(2) The notice of certification must include the following:

(a) the name and address of the applicant;

(b) a copy of the preliminary plat included with the application for the proposed subdivision or a final plat when a preliminary plat is not necessary or, for a subdivision not subject to Title 76, chapter 3 or 25, a copy of the certificate of survey map or amended plat map or a declaration and floor plan, including the layout of each unit proposed to be recorded under Title 70, chapter 23, part 3;

(c) the number of parcels in the subdivision;

(d) a copy of any applicable zoning ordinances in effect;

(e) how construction of the sewage disposal and water supply systems or extensions will be financed;

(f) the relative location of the subdivision to the city or the county water and/or sewer district boundaries of the certifying authority;

(g) certification that adequate municipal or county water and/or sewer district facilities for the supply of water and disposal of sewage and solid waste will be provided. Facilities for subdivisions subject to 76-3-507 or 76-25-413 must be provided within the time ~~that section provides~~ required by the governing body under 76-3-507 or 76-25-413, as applicable.

(h) if water supply, sewage disposal, solid waste, or storm water drainage facilities are not municipally owned, certification from the facility owners that adequate facilities will be available; and

(i) certification that the certifying authority has or will review and approve plans to ensure adequate storm water drainage.

(3) A municipality may be authorized to act as a reviewing authority under this section and may self-approve the municipality's own exemption."

Section 7. Section 76-25-103, MCA, is amended to read:

"76-25-103. Definitions. As used in this chapter, unless the context or subject matter clearly requires otherwise, the following definitions apply:

(1) "Aggrieved party" means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

(2) "Applicant" means a person who seeks a land use permit or other approval of a development proposal.

(3) "Built environment" means man-made or modified structures that provide people with living, working, and recreational spaces.

(4) "Cash-in-lieu donation" is the amount equal to the fair market value of unsubdivided, unimproved land.

(5) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(6) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

(7) "Division of land" means the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to this chapter. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.

(8) "Dwelling" means a building designed for residential living purposes, including single-unit, two-unit, and multi-unit dwellings.

(9) "Dwelling unit" means one or more rooms designed for or occupied exclusively by one household.

(10) "Examining land surveyor" means a registered land surveyor appointed by the governing body to review surveys and plats submitted for filing.

(11) "Final plat" means the final drawing of the subdivision and dedication required by this chapter to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this chapter and in regulations adopted pursuant to this chapter.

(12) "Four-unit dwelling" or "fourplex" means a building designed for four attached dwelling units in which the dwelling units share a common separation, such as a ceiling or wall, and in which access cannot be gained between the units through an internal doorway, excluding common hallways.

(13) "Immediate family" means a spouse, children by blood or adoption, and parents.

(14) "Irrigation district" means a district established pursuant to Title 85, chapter 7.

(15) "Jurisdictional area" or "jurisdiction" means the area within the boundaries of the local government. For municipalities, the term includes those areas the local government anticipates may be annexed into the municipality over the next 20 years.

(16) “Land use permit” means an authorization to complete development in conformance with an application approved by the local government.

(17) “Land use plan” means the land use plan and future land use map adopted in accordance with this chapter.

(18) “Land use regulations” means zoning, zoning map, subdivision, or other land use regulations authorized by state law.

(19) “Local governing body” or “governing body” means the elected body responsible for the administration of a local government.

(20) “Local government” means a county, consolidated city-county, or an incorporated municipality to which the provisions of this chapter apply as provided in 76-25-105.

(21) “Manufactured housing” means a dwelling for a single household, built offsite in a factory that is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home or housetrailer, as defined in 15-1-101.

(22) “Ministerial permit” means a permit granted upon a determination that a proposed project complies with the ~~zoning map~~ *applicable regulations* and ~~the~~ *meets all* established standards set forth in the ~~zoning~~ *applicable* regulations. The determination must be based on objective standards, involving little or no personal judgment, and must be issued by the planning administrator.

(23) “Multi-unit dwelling” means a building designed for five or more attached dwelling units in which the dwelling units share a common separation, such as a ceiling or wall, and in which access cannot be gained between the units through an internal doorway, excluding common hallways.

(24) “Permitted use” means a use that may be approved by issuance of a ministerial permit.

(25) “Planning administrator” means the person designated by the local governing body to review, analyze, provide recommendations, or make final decisions on any or all zoning, subdivision, and other development applications as required in this chapter, *or a person designated and supervised by the planning administrator to perform the duties.*

(26) “Plat” means a graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

(27) “Preliminary plat” means a neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body.

(28) “Public utility” has the meaning provided in 69-3-101, except that for the purposes of this chapter, the term includes a county water or sewer district as provided for in Title 7, chapter 13, parts 22 and 23, and municipal sewer or water systems and municipal water supply systems established by the governing body of a municipality pursuant to Title 7, chapter 13, parts 42, 43, and 44.

(29) “Single-room occupancy development” means a development with dwelling units in which residents rent a private bedroom with a shared kitchen and bathroom facilities.

(30) “Single-unit dwelling” means a building designed for one dwelling unit that is detached from any other dwelling unit.

(31) “Subdivider” means a person who causes land to be subdivided or who proposes a subdivision of land.

(32) “Subdivision” means a division of land or land so divided that it creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of

public roadways, in order that the title to the parcels may be sold or otherwise transferred and includes any resubdivision and a condominium. The term also means an area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or mobile homes will be placed.

(33) "Subdivision guarantee" means a form of guarantee that is approved by the commissioner of insurance and is specifically designed to disclose the information required in 76-25-413.

(34) "*Substantial compliance*" means:

(a) *with respect to the amendment of an adopted land use plan, that all facets of the proposed amendments, when taken together, comply, not strictly and rigidly but substantially, with the densities, standards, and community intent for development of the community as set forth in the jurisdiction's adopted land use plan;*

(b) *with respect to the adoption or amendment of a zoning map, zoning regulation, or subdivision regulation, that all facets of the proposed map, regulation, or amendment, when taken together, comply, not strictly and rigidly but substantially, with the densities, standards, and community intent for development of the site as set forth in the jurisdiction's applicable adopted land use plan; and*

(c) *with respect to the proposed development of a particular site, that all facets of the proposed development, when taken together, comply, not strictly and rigidly but substantially, with the densities and standards for development of the site as set forth in the jurisdiction's applicable adopted zoning regulations, zoning map, and subdivision regulations.*

(34)(35) "Tract of record" means an individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office.

(35)(36) "Three-unit dwelling" or "triplex" means a building designed for three attached dwelling units in which the dwelling units share a common separation, such as a ceiling or wall, and in which access cannot be gained between the units through an internal doorway, excluding common hallways.

(36)(37) "Two-unit dwelling" or "duplex" means a building designed for two attached dwelling units in which the dwelling units share a common separation, such as a ceiling or wall, and in which access cannot be gained between the units through an internal doorway."

Section 8. Section 76-25-104, MCA, is amended to read:

"76-25-104. Planning commission. (1) (a) Each local government shall establish, by ordinance or resolution, a planning commission.

(b) Any combination of local governments may create a **multi-jurisdiction multijurisdictional** planning commission or join an existing commission pursuant to an interlocal agreement.

(c) (i) Any combination of legally authorized planning boards, zoning commissions, planning and zoning commissions, or boards of adjustment existing prior to May 17, 2023, may be considered duly constituted under this chapter as a planning commission by agreement of the governing bodies of each jurisdiction represented on the planning commission.

(ii) If more than one legally authorized planning board, zoning commission, or planning and zoning commission exists within a jurisdiction, the governing bodies of each jurisdiction may agree to:

(A) designate, combine, consolidate, or modify one or more of the authorized boards or commissions as the planning commission; or

(B) create a new planning commission pursuant to this section and disband the existing boards and commissions.

(d)(i) A local government subject to this chapter may continue to be represented on an existing city-county planning board, joint city-county planning board, or consolidated city-county planning board as authorized under Title 76, chapter 1, with other local governments and share in the membership duties and costs of the board.

(ii) A local government's continued participation in a planning board as set forth in subsection (1)(d)(i) is solely for the purposes set forth in Title 76, chapter 1.

(2) (a) (i) Each planning commission must consist of an odd number of no fewer than three voting members who are confirmed by majority vote of each local governing body.

(ii) Each jurisdiction must be equally represented in the membership of a ~~multi-jurisdiction~~ *multijurisdictional* planning commission.

(b) The planning commission shall meet at least once every 6 months.

(c) Minutes must be kept of all meetings of the planning commission, and all meetings and records must be open to the public.

(d) A majority of currently appointed voting members of the planning commission constitutes a quorum. A quorum must be present for the planning commission to take official action. A favorable vote of at least a majority of the quorum is required to authorize an action at a regular or properly called special meeting.

(e) The ordinance, resolution, or interlocal agreement creating the planning commission must set forth the requirements for appointments, terms, qualifications, removal, vacancies, meetings, notice of meetings, officers, reimbursement of costs, bylaws, or any other requirement determined necessary by the local governing body.

(3) (a) Except as set forth in subsection (3)(b), the planning commission shall review and make recommendations to the local governing body regarding the development, adoption, amendment, review, and approval or denial of the following documents:

(i) the land use plan and future land use map as provided in 76-25-201;

(ii) zoning regulations and map as provided in Title 76, chapter 25, part 3;

(iii) subdivision regulations as provided in Title 76, chapter 25, part 4; and

(iv) any other legislative land use planning document the local governing body designates.

(b) In accordance with 76-25-503, the planning commission shall hear and decide appeals from any site-specific land use decisions made by the planning administrator pursuant to the adopted regulations described in subsection (3)(a). Decisions of the planning commission may be appealed to the local governing body as provided in 76-25-503.

(4) The planning commission may be funded pursuant to 76-1-403, and 76-1-404, and 76-1-406.”

Section 9. Section 76-25-106, MCA, is amended to read:

“76-25-106. Public participation. (1) (a) A local government shall provide continuous public participation when adopting, amending, or updating a land use plan or regulations pursuant to this chapter.

(b) Public participation in the adoption, amendment, or update of a land use plan or implementing regulations must provide for, at a minimum:

(i) dissemination of draft documents;

(ii) an opportunity for written and verbal comments;

(iii) public meetings after effective notice;

(iv) electronic communication regarding the process, including online access to documents, updates, and comments; and

(v) an analysis of and response to public comments.

(2) A local government shall document and retain all public outreach and participation performed as part of the administrative record in accordance with the retention schedule published by the secretary of state.

(3) (a) A local government may decide the method for providing:

(i) general public notice and participation in the adoption, amendment, or update of a land use plan or regulation; and

(ii) notice of written comment on applications for land use permits pursuant to this chapter.

(b) All notices must clearly specify the nature of the land use plan or regulation under consideration, what type of comments the local government is seeking from the public, and how the public may participate.

(c) The local government shall document what methods it used to provide continuous participation in the development, adoption, or update of a land use plan or regulation and shall document all comments received.

(d) The department of commerce established in 2-15-1801 and functioning pursuant to 90-1-103 shall develop a list of public participation methods and best practices for use by local governments in developing, adopting, or updating a land use plan or regulations.

(4) Throughout the adoption, amendment, or update of the land use plan or regulation processes, a local government shall emphasize that:

(a) the land use plan is intended to identify the opportunities for development of land within the planning area for housing, businesses, agriculture, and the extraction of natural resources, while acknowledging and addressing the impacts of that development on adjacent properties, the community, the natural environment, public services and facilities, and natural hazards;

(b) the process provides for continuous and extensive public notice, review, comment, and participation in the development of the land use plan or regulation; *and*

(c) the final adopted land use plan, including amendments or updates to the final adopted land use plan, comprises the basis for implementing land use regulations in substantial compliance with the land use plan; ~~and~~

~~(d) the scope of and opportunity for public participation and comment on site-specific development in substantial compliance with the land use plan must be limited only to those impacts or significantly increased impacts that were not previously identified and considered in the adoption, amendment, or update of the land use plan, zoning regulations, or subdivision regulations.~~

(5) The local governing body shall adopt a public participation plan detailing how the local government will meet the requirements of this section."

Section 10. Section 76-25-301, MCA, is amended to read:

"76-25-301. Authority to adopt local zoning regulations. (1) (a) A local government subject to this chapter, within its respective jurisdiction, has the authority to and shall regulate the use of land in substantial compliance with its adopted land use plan by adopting zoning regulations.

(b) The governing body of a county or city has the authority to adopt zoning regulations in accordance with this part by an ordinance that substantially complies with 7-5-103 through 7-5-107.

(c) (i) A municipality shall adopt zoning regulations for the portions of the jurisdictional area outside of the boundaries of the municipality that the governing body anticipates may be annexed into the municipality over the next 20 years.

(ii) Unless otherwise agreed to by the applicable jurisdictions, zoning regulations on property outside the municipal boundaries may not apply or be enforced until those areas are annexed or are being annexed into the municipality.

(iii) *A municipality subject to this chapter may continue to apply, administer, and enforce extraterritorial zoning regulations pursuant to the provisions of 76-2-310 and 76-2-311.*

(2) Local zoning regulations authorized in subsection (1) include but are not limited to ordinances prescribing the:

- (a) uses of land;
- (b) density of uses;
- (c) types of uses;
- (d) size, character, number, form, and mass of structures; and

(e) development standards mitigating the impacts of development, as identified and analyzed during the land use planning process and review and adoption of zoning regulations pursuant to this chapter.

(3) The local government shall incorporate any existing zoning regulations adopted pursuant to Title 76, chapter 2, into the zoning regulations meeting the requirements of this chapter.

(4) The local government shall adopt a zoning map for the jurisdiction in substantial compliance with the land use plan and future land use map and the zoning regulations adopted pursuant to this section, graphically illustrating the zone or zones that a property within the jurisdiction is subject to.

(5) The local government may provide for the issuance of permits as may be necessary for the implementation of this chapter.

(6) (a) The zoning regulations and map must identify areas that may necessitate the denial of a development or a specific type of development, such as unmitigable natural hazards, insufficient water supply, inadequate drainage, lack of access, inadequate public services, or the excessive expenditure of public funds for the supply of the services.

(b) The regulations must prohibit development in the areas identified in subsection (6)(a) unless the hazards or impacts may be eliminated or overcome by approved construction techniques or other mitigation measures identified in the zoning regulations.

(c) Approved construction techniques or other mitigation measures described in subsection (6)(b) may not include building regulations as defined in 50-60-101 other than those identified by the department of labor and industry as provided in 50-60-901.

(7) The zoning regulations and map must mitigate the hazards created by development in areas located within the floodway of a flood of 100-year frequency, as defined by Title 76, chapter 5, or determined to be subject to flooding by the governing body. If the hazards cannot be mitigated, the zoning regulations and map must identify those areas where future development is limited or prohibited.

(8) The zoning regulations must allow for the continued use of land or buildings legal at the time that any zoning regulation, map, or amendment thereto is adopted, but the local government may provide grounds for discontinuing nonconforming uses based on changes to or abandonment of the use of the land or buildings after the adoption of a zoning regulation, map, or amendment.”

Section 11. Section 76-25-305, MCA, is amended to read:

“76-25-305. Effect on zoning regulations and map. (1) After the adoption of a zoning regulation, map, or amendment pursuant to 76-25-304,

any application proposing development of a site is subject to the process set forth in this section.

(2) (a) When a proposed development lies entirely within an incorporated city, or is proposed for annexation into the city, the application must be submitted to and approved by the city.

(b) Except as provided in subsections (2)(a) or (2)(c), when a proposed development lies entirely in an unincorporated area, the application must be submitted to and approved by the county.

(c) If a proposed development lies within an area subject to increased growth pressures, higher development densities, or other urban development influences identified by either jurisdiction in 76-25-213, the jurisdiction shall provide other impacted jurisdictions the opportunity to review and comment on the application.

(d) If the proposed development lies partly within an incorporated city, the application and materials must be submitted to and approved by both the city and the county governing bodies.

~~(3) Zoning compliance permits and other ministerial permits may be issued by the planning administrator or the planning administrator's designee without any further review or analysis by the governing body, except as provided in 76-25-503.~~

(4) After accepting a complete application proposing development of a site, the planning administrator shall make an initial determination of whether:

(a) If a proposed development, with or without variances or deviations from adopted standards, is in substantial compliance with the zoning regulations or map; and

(b) all impacts resulting from the proposed development were previously analyzed and made available for public review and comment prior to in the adoption, amendment, or update of the land use plan, zoning regulation, or zoning map, or amendment thereto.

(4) (a) If the planning administrator makes an initial determination that the proposed development, with or without variances or deviations from adopted standards, meets the requirements of subsections (3)(a) and (3)(b), the planning administrator shall provide public notice of the initial determination in accordance with 76-25-106(3)(a) and (3)(b) and a 15-business-day written public comment period during which the public must have an opportunity to comment on the initial determination.

(b) Unless public comment received on or before the last day of the comment period provided in subsection (4)(a) supports a determination that the proposed development fails to meet the requirements of subsections (3)(a) and (3)(b), the planning administrator shall issue written findings stating the results of the public comment and a final written decision approving, approving with conditions, or denying the application, which may be appealed as provided in 76-25-503.

(c) If public comment received on or before the last day of the comment period provided in subsection (4)(a) provides evidence that the proposed development fails to meet either one or both of the requirements of subsections (3)(a) or (3)(b), the planning administrator shall proceed with further review of the application as set forth in subsection (5)., the application must be approved, approved with conditions, or denied by the planning administrator and is not subject to any further public review or comment, except as provided in 76-25-503.

(5) (a) If a the planning administrator makes an initial determination or public comment received under subsection (4)(c) provides evidence that the proposed development, with or without variances or deviations from adopted standards, fails to meet either one or both of the requirements of subsections

~~(3)(a) or (3)(b) is in substantial compliance with the zoning regulations and map but may result in new or significantly increased potential impacts that have not been previously identified and considered in the adoption of the land use plan or zoning regulations, the planning administrator shall proceed as follows:~~

~~(b)(a) request that the applicant collect any additional data and perform any additional analysis necessary to provide the planning administrator and the public with the opportunity to comment on and consider the lack of substantial compliance with the zoning regulations or zoning map and any new or significantly increased potential impacts identified in subsection (5)(a) not previously identified and considered in the adoption, amendment, or update of the land use plan, zoning regulations, or zoning map;~~

~~(c)(b) collect any additional data or perform additional analysis the planning administrator determines is necessary to provide the local government and the public with the opportunity to comment on and consider the lack of substantial compliance with the zoning regulations or zoning map and any new or significantly increased potential impacts identified in subsection (5)(a) not previously identified and considered in the adoption, amendment, or update of the land use plan, zoning regulations, or zoning map; and~~

~~(d)(c) provide public notice of the planning administrator's initial or revised initial determination in accordance with 76-25-106(3)(a) and (3)(b) of and a 15-business day written comment period during which the public has the reasonable must have the opportunity to participate in the consideration of the impacts identified in and comment on the data collected and analysis performed pursuant to subsection subsections (5)(a) and (5)(b).~~

~~(6) (a) Any additional data, analysis, or public comment, or consideration on a proposed development described in subsection (5) must be limited to only the lack of substantial compliance with the zoning regulations or map and any new or significantly increased impacts potentially resulting from the proposed development, to the extent the impact was not previously identified or considered in the adoption, or amendment, or update of the land use plan, or zoning regulations, or zoning map.~~

~~(b)(7) The After the public comment period provided in subsection (5) has ended, the planning administrator shall issue written findings stating the results of the public comment and a final written decision approving, approving with conditions, or denying the application, which may be appealed approve; approve with conditions; or deny the application. The planning administrator's decision is final and no further action may be taken except as provided in 76-25-503.~~

~~(7)(8) If an applicant proposes to develop a site in a manner or to an extent that the development is not in substantial compliance with the zoning regulations or map, the applicant shall may propose an amendment to the regulations or map and follow the process provided for in 76-25-304.~~

~~(9) Ministerial permits may be issued by the planning administrator without any discretionary review or analysis, and may be appealed as provided in 76-25-503."~~

Section 12. Section 76-25-408, MCA, is amended to read:

"76-25-408. Local review procedure for divisions of land. (1) An applicant may request a preapplication submittal and response from the planning administrator prior to submitting a subdivision application. The preapplication review must take place no more than 30 business days from the date that the planning administrator receives a written request for a preapplication review from the subdivider.

(2) On receipt of an application for an exemption from subdivision review under 76-25-402 that contains all materials and information required by the governing body under subsection (5), the local government:

(a) shall approve or deny the application within 20 business days;

(b) may not impose conditions on the approval of an exemption from subdivision review except for conditions necessary to ensure compliance with the survey requirements of 76-25-412(1); and

(c) may require the certificate of survey to be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before filing with the county clerk and recorder. The examining land surveyor shall certify compliance in a printed or stamped certificate signed by the surveyor on the certificate of survey. A professional land surveyor may not act as an examining land surveyor in regard to a certificate of survey in which the surveyor has a financial or personal interest.

(3) (a) When a proposed subdivision lies entirely within an incorporated city or is proposed for annexation into the city, the application and preliminary plat must be submitted to and approved by the city.

(b) Except as provided in subsection (3)(c), when a proposed subdivision lies entirely in an unincorporated area, the application and preliminary plat must be submitted to and approved by the county.

(c) If the proposed subdivision lies within an area subject to increased growth pressures, higher development densities, or other urban development influences identified by either jurisdiction in 76-25-213, the jurisdiction shall provide other impacted jurisdictions the opportunity to review and comment on the application.

(d) If the proposed subdivision lies partly within an incorporated city, the application and preliminary plat must be submitted to and approved by both the city and the county governing bodies.

(4) A subdivision application is considered received on the date the application is delivered to the reviewing agent or agency if accompanied by the review fee.

(5) (a) The planning administrator has 20 business days to determine whether the application contains all information and materials necessary to complete the review of the application as set forth in the local subdivision regulations.

(b) The planning administrator may review subsequent submissions of the application only for information found to be deficient during the original review of the application under subsection (5)(a).

(c) A determination that an application contains sufficient information for review as provided in subsection (5)(a) does not ensure approval or conditional approval of the proposed subdivision and does not limit the ability of the planning administrator to request additional information during the review process.

(6) A subdivider may propose a phasing plan for approval with a preliminary plat. The phasing plan must include a phasing plan and map that demonstrates what lots will be included with each phase, what public facilities will be completed with each phase, and the timeline for the proposed phases.

(7) *After accepting a complete application proposing subdivision of a site, the planning administrator shall make an initial determination of whether:*

~~(7) (a) If an application proposes a subdivision of a site that the proposed subdivision, with or without variances or deviations from adopted standards, is in substantial compliance with the zoning and subdivision regulations; and~~

~~(b) all impacts resulting from the development proposed subdivision were previously analyzed and made available for public review and comment~~

~~prior to~~ in the adoption, amendment, or update of the land use plan, zoning regulations, and subdivision regulations, ~~or any amendment thereto.~~

(8) (a) *If the planning administrator makes an initial determination that the proposed subdivision, with or without variances or deviations from adopted standards, meets subsections the requirements of (7)(a) and (7)(b), the planning administrator shall provide public notice of its initial determination in accordance with 76-25-106(3)(a) and (3)(b) and a 15-business-day written public comment period during which the public must have an opportunity to comment on the initial determination.*

(b) *Unless public comment received on or before the last day of the comment period provided in subsection (8)(a) supports a determination that the proposed subdivision fails to meet either one or both of the requirements of subsections (7)(a) or (7)(b), the planning administrator shall issue written findings stating the results of the public comment and a final written decision approving, approving with conditions, or denying the application, which may be appealed as provided in 76-25-503.*

(c) *If public comment received on or before the last day of the comment period in subsection (8)(a) provides evidence that the proposed subdivision fails to meet either one or both of the requirements of subsections (7)(a) or (7)(b), the planning administrator shall proceed with further review of the application as set forth in subsection (9).*

~~shall issue a written decision to approve, approve with conditions, or deny the preliminary plat.~~

~~(b) The application is not subject to any further public review or comment, except as provided in 76-25-503.~~

~~(c) The decision by the planning administrator must be made no later than 15 business days from the date the application is considered complete.~~

(8)(9)(a) *If an application proposes the planning administrator makes an initial determination or public comment received under subsection (8)(c) provides evidence that a proposed subdivision of a site that, with or without variances or deviations from adopted standards, is in substantial compliance with the zoning and subdivision regulations but may result in new or significantly increased potential impacts that have not been previously identified and considered in the adoption of the land use plan, zoning regulations, or subdivision regulations, or any amendments thereto, fails to meet either one or both of the requirements of subsections (7)(a) or (7)(b), the planning administrator shall proceed as follows:*

~~(i)(a) request the applicant to collect any additional data and perform any additional analysis necessary to provide the planning administrator and the public with the opportunity to comment on and consider the impacts identified in this subsection (8)(a) lack of substantial compliance with the zoning and subdivision regulations and any new or significantly increased potential impacts not previously identified and considered in the adoption, amendment, or update of the land use plan, zoning regulations, and subdivision regulations;~~

~~(ii)(b) collect any additional data and perform any additional analysis that the planning administrator determines is necessary to provide the local government and the public with the opportunity to comment on and consider the impacts identified in this subsection (8)(a) lack of substantial compliance with the zoning and subdivision regulations and any new or significantly increased potential impacts not previously identified or considered in the adoption, amendment, or update of the land use plan, zoning regulations, and subdivision regulations; and~~

~~(iii)(c) provide public notice of the planning administrator's initial or revised initial determination in accordance with 76-25-106(3)(a) and (3)(b) of and a written comment period of 15 business days during which the public must~~

have a reasonable *an* opportunity to participate in the consideration of the impacts identified in this subsection (8)(a) and comment on the data collected and analysis performed pursuant to subsections (9)(a) and (9)(b).

~~(b)(10)~~ Any additional data, analysis, or public comment, or consideration described in subsection (9) ~~on the proposed development is~~ must be limited to ~~only~~ the lack of substantial compliance with the zoning and subdivision regulations and any new or significantly increased potential impacts resulting from the proposed ~~development subdivision~~ subdivision to the extent that the impact was not previously identified in the ~~consideration and~~ adoption, amendment, or update of the land use plan, zoning regulations, zoning map, or subdivision regulations, or any amendments thereto.

~~(9)(11)~~ Within 30 business days of the end of the written comment period provided in subsection ~~(8)(a)(iii)~~ (9)(c), the planning administrator shall *issue written findings stating the results of the public comment and shall* issue a written decision to approve, conditionally approve, or deny a proposed subdivision application, *which may be appealed as provided in 76-25-503.*

~~(10)(12)~~ The basis of the decision to approve, conditionally approve, or deny a proposed preliminary plat is based on the administrative record as a whole and a finding that the proposed subdivision:

- (a) meets the requirements and standards of this chapter;
- (b) meets the survey requirements provided in 76-25-412(1);
- (c) provides the necessary easements within and to the proposed subdivision for the location and installation of any planned utilities; and
- (d) provides the necessary legal and physical access to each parcel within the proposed subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel.

~~(11)(13)~~ (a) The written decision must identify each finding required in subsection ~~(10)~~ (12) that supports the decision to approve, conditionally approve, or deny a proposed preliminary plat, including any conditions placed on the approval that must be satisfied before a final plat may be approved.

(b) The written decision must identify all facts that support the basis for each finding and each condition and identify the regulations and statutes used in reaching each finding and each condition.

(c) When requiring mitigation as a condition of approval, a local government may not unreasonably restrict a landowner's ability to develop land. However, in some instances, the local government may determine that the impacts of a proposed development are unmitigable and preclude approval of the subdivision.

~~(12)(14)~~ The written decision to approve, conditionally approve, or deny a proposed subdivision must:

- (a) be provided to the applicant;
- (b) be made available to the public;
- (c) include information regarding the appeal process; and
- (d) state the timeframe the approval is in effect.

~~(13)~~ The planning administrator's decision is final, and no further action may be taken except as provided in 76-25-503.

~~(14)(15)~~ Any changes to an approved preliminary plat that increases the number of lots or redesigns or rearranges six or more lots must undergo consideration and approval of an amended plat following the requirements of this section.

(16) Ministerial permits may be issued by the planning administrator without any discretionary review or analysis, and may be appealed as provided in 76-25-503."

Section 13. Section 76-25-410, MCA, is amended to read:

“76-25-410. Local review procedure for final plats. (1) The following must be submitted with a final plat application:

(a) information demonstrating the final plat conforms to the written decision and all conditions of approval set forth on the preliminary plat;

(b) a plat that meets the survey requirements provided in 76-25-412(1); and

(c) confirmation the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid.

(2) The final plat may be required to be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before filing with the county clerk and recorder. The examining land surveyor shall certify compliance in a printed or stamped certificate signed by the surveyor on the final plat. A professional land surveyor may not act as an examining land surveyor in regard to a plat in which the surveyor has a financial or personal interest.

(3) A final plat application is considered received on the date the application is delivered to the governing body or the agent or agency designated by the governing body if accompanied by the review fee.

(4) (a) Within 10 business days of receipt of a final plat, the planning administrator shall determine whether the final plat contains the information required under subsection (1) and shall notify the subdivider in writing.

(b) If the planning administrator determines that the final plat does not contain the information required under subsection (1), the planning administrator shall identify the final plat's defects in the notification.

(c) The planning administrator may review subsequent submissions of the final plat only for information found to be deficient during the original review of the final plat under subsection (4)(a).

(d) A determination that the application for a final plat contains sufficient information for review as provided in subsection (4)(a) does not ensure approval of the final plat and does not limit the ability of the planning administrator to request additional information during the review process.

(5) Once a determination is made under subsection (4) that the final plat contains the information required under subsection (1), the governing body shall review and approve or deny the final plat within 20 business days.

(6) The subdivider or the subdivider's agent and the governing body or its reviewing agent or agency may mutually agree to extend the review periods provided for in this section.

(7) (a) For a period of 5 years after approval of a phased preliminary plat, the subdivider may apply for final plat of any one or more phases following the process set forth in subsections (1) through (6).

(b) After 5 years have elapsed since approval of a phased preliminary plat, the planning administrator shall review each remaining phase to determine if a phase may result in new or significantly increased potential impacts that have not been previously identified and considered in the adoption of the land use plan, zoning or subdivision regulations, or review and approval of the phased preliminary plat. If the planning administrator identifies any new or significantly increased potential impacts not previously identified and considered, the planning administrator shall proceed as set forth in 76-25-408(8)(9).

(c) If necessary to mitigate impacts identified in subsection (7)(b), the planning administrator may impose conditions on any phase before final plat approval is sought.”

Section 14. Section 76-25-503, MCA, is amended to read:

“76-25-503. Appeals – *public hearing and notice*. (1) Appeals of any final decisions made pursuant to this chapter must be made in accordance with this section.

(2) For a challenge to the adoption of or amendment to a land use plan, zoning regulation, zoning map, or subdivision regulation, a petition setting forth the basis for the challenge must be presented to the district court within 30 days of the date of the resolution or ordinance adopted by the governing body.

(3) (a) Any final administrative land use decision, including but not limited to approval or denial of a zoning permit, preliminary plat or final plat, imposition of a condition on a zoning permit or plat, approval or denial of a variance from a zoning or subdivision regulation, or interpretation of land use regulations or map may be appealed by the applicant or any aggrieved person to the planning commission.

(b) An appeal under subsection (3)(a) must be submitted in writing within 15 business days of the challenged decision, stating the facts and raising all grounds for appeal that the party may raise in district court.

(c) (i) The planning commission shall *hold a public hearing* to hear the appeal de novo. The planning commission is not bound by the decision that has been appealed, but the appeal must be limited to the issues raised on appeal. The appellant has the burden of proving that the appealed decision was made in error.

(ii) *Notice of the appeal must be published as provided in 7-1-2121 or 7-1-4127, as applicable.*

(d) A decision of the planning commission on appeal takes effect on the date when the planning commission issues a written decision.

(4) (a) Any final land use decision by the planning commission may be appealed by the applicant, planning administrator, or any aggrieved person to the governing body.

(b) An appeal under subsection (4)(a) must be submitted in writing within 15 business days of the challenged decision, stating the facts and raising all grounds for appeal that the party may raise in district court.

(c) (i) The governing body shall *hold a public hearing* to hear the appeal de novo. The governing body is not bound by the decision that has been appealed, but the appeal must be limited to the issues raised on appeal. The appellant has the burden of proving that the appealed decision was made in error.

(ii) *Notice of the appeal must be published as provided in 7-1-2121 or 7-1-4127, as applicable.*

(d) A decision of the governing body on appeal takes effect on the date when the governing body issues a written decision.

(5) (a) No person may challenge in district court a land use decision until that person has exhausted the person’s administrative appeal process as provided in this section.

(b) Any final land use decision of the governing body may be challenged by presenting a petition setting forth the grounds for review of a final land use decision with the district court within 30 calendar days after the written decision is issued.

(c) A challenge in district court to a final land use decision of the governing body is limited to the issues raised by the challenger on administrative appeal.

(6) Every final land use decision made pursuant to this section must be based on the administrative record as a whole and must be sustained unless the decision being challenged is arbitrary, capricious, or unlawful.

(7) Nothing in this chapter is subject to any provision of Title 2, chapter 4.”

Section 15. Effective date. [This act] is effective on passage and approval.

Section 16. Termination. [Sections 11 through 13] terminate June 30, 2027.

Approved May 8, 2025

CHAPTER NO. 556

[SB 133]

AN ACT REVISING LOCAL GOVERNMENT IMPACT FEE LAWS; REMOVING THE ALLOWED ADMINISTRATION FEE; REQUIRING THAT IMPACT FEES NOT INCREASE MORE THAN THE RATE OF INFLATION; REVISING DEFINITIONS; AND AMENDING SECTIONS 7-6-1601 AND 7-6-1602, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-6-1601, MCA, is amended to read:

“7-6-1601. Definitions. As used in this part, the following definitions apply:

(1) (a) “Capital improvements” means improvements, land, and equipment with a useful life of 10 years or more that increase or improve the service capacity of a public facility.

(b) The term does not include consumable supplies.

(2) “Connection charge” means the actual cost of connecting a property to a public utility system and is limited to the labor, materials, and overhead involved in making connections and installing meters.

(3) “Development” means construction, renovation, or installation of a building or structure, a change in use of a building or structure, or a change in the use of land when the construction, installation, or other action creates additional demand for public facilities.

(4) “Governmental entity” means a county, city, town, or consolidated government.

(5) (a) “Impact fee” means any charge imposed ~~upon~~ *on* development by a governmental entity as part of the development approval process to fund the additional service capacity required by the development from which it is collected. ~~An impact fee may include a fee for the administration of the impact fee not to exceed 5% of the total impact fee collected.~~

(b) The term does not include:

(i) a charge or fee to pay for administration, plan review, or inspection costs associated with a permit required for development;

(ii) a connection charge;

(iii) any other fee authorized by law, including but not limited to user fees, special improvement district assessments, fees authorized under Title 7 for county, municipal, and consolidated government sewer and water districts and systems, and costs of ongoing maintenance; or

(iv) onsite or offsite improvements necessary for new development to meet the safety, level of service, and other minimum development standards that have been adopted by the governmental entity.

(6) “Proportionate share” means that portion of the cost of capital system improvements that reasonably relates to the service demands and needs of the project. A proportionate share must take into account the limitations provided in 7-6-1602.

(7) “Public facilities” means:

- (a) a water supply production, treatment, storage, or distribution facility;
- (b) a wastewater collection, treatment, or disposal facility;
- (c) a transportation facility, including roads, streets, bridges, rights-of-way, and traffic signals, ~~and landscaping;~~
- (d) a storm water collection, retention, detention, treatment, or disposal facility or a flood control facility; *and*
- (e) a ~~police law enforcement~~, emergency medical rescue, 9-1-1 system, emergency management, or fire protection facility.; ~~and~~
- (f) ~~other facilities for which documentation is prepared as provided in 7-6-1602 that have been approved as part of an impact fee ordinance or resolution by:~~
- (i) ~~a two-thirds majority of the governing body of an incorporated city, town, or consolidated local government; or~~
- (ii) ~~a unanimous vote of the board of county commissioners of a county government."~~

Section 2. Section 7-6-1602, MCA, is amended to read:

"7-6-1602. Calculation of impact fees – documentation required – ordinance or resolution – requirements for impact fees. (1) For each public facility for which an impact fee is imposed, the governmental entity shall prepare and approve a service area report.

- (2) The service area report is a written analysis that must:
 - (a) describe existing conditions of the facility;
 - (b) establish level-of-service standards;
 - (c) forecast future additional needs for service for a defined period of time;
 - (d) identify capital improvements necessary to meet future needs for service;
 - (e) identify those capital improvements needed for continued operation and maintenance of the facility;
 - (f) make a determination as to whether one service area or more than one service area is necessary to establish a correlation between impact fees and benefits;
 - (g) make a determination as to whether one service area or more than one service area for transportation facilities is needed to establish a correlation between impact fees and benefits;
 - (h) establish the methodology and time period over which the governmental entity will assign the proportionate share of capital costs for expansion of the facility to provide service to new development within each service area;
 - (i) establish the methodology that the governmental entity will use to exclude operations and maintenance costs and correction of existing deficiencies from the impact fee;
 - (j) establish the amount of the impact fee that will be imposed for each unit of increased service demand; and
 - (k) have a component of the budget of the governmental entity that:
 - (i) schedules construction of public facility capital improvements to serve projected growth;
 - (ii) projects costs of the capital improvements;
 - (iii) allocates collected impact fees for construction of the capital improvements; and
 - (iv) covers at least a 5-year period and is reviewed and updated at least every 5 years.

(3) The service area report is a written analysis that must contain documentation of sources and methodology used for purposes of subsection (2) and must document how each impact fee meets the requirements of subsection (7).

(4) The service area report that supports adoption and calculation of an impact fee must be available to the public upon request.

(5) ~~(a) The~~ Pursuant to subsection (5)(b), the amount of each impact fee imposed must be based ~~upon on~~ the actual cost of public facility expansion or improvements or reasonable estimates of the cost to be incurred by the governmental entity as a result of new development. The calculation of each impact fee must be in accordance with generally accepted accounting principles.

(b) The initial amount of an impact fee calculated pursuant to this section may not be increased more than the rate of inflation as determined by the producer price index by commodity, all commodities, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor. The inflation rate must be determined by comparing the most recently published month producer price index by commodity, all commodities, compared to the same month in the prior year.

(6) The ordinance or resolution adopting the impact fee must include a time schedule for periodically updating the documentation required under subsection (2).

(7) An impact fee must meet the following requirements:

(a) The amount of the impact fee must be reasonably related to and reasonably attributable to the development's share of the cost of infrastructure improvements made necessary by the new development.

(b) The impact fees imposed may not exceed a proportionate share of the costs incurred or to be incurred by the governmental entity in accommodating the development. The following factors must be considered in determining a proportionate share of public facilities capital improvements costs:

(i) the need for public facilities capital improvements required to serve new development; and

(ii) consideration of payments for system improvements reasonably anticipated to be made by or as a result of the development in the form of user fees, debt service payments, taxes, and other available sources of funding the system improvements.

(c) Costs for correction of existing deficiencies in a public facility may not be included in the impact fee.

(d) New development may not be held to a higher level of service than existing users unless there is a mechanism in place for the existing users to make improvements to the existing system to match the higher level of service.

(e) Impact fees may not include expenses for operations and maintenance of the facility."

Approved May 8, 2025

CHAPTER NO. 557

[SB 181]

AN ACT GENERALLY REVISING EDUCATION LAWS TO STRENGTHEN THE STATE'S COMMITMENT TO PRESERVING AMERICAN INDIAN CULTURAL INTEGRITY UNDER ARTICLE X, SECTION 1(2), OF THE MONTANA CONSTITUTION; REVISING INDIAN EDUCATION FOR ALL LAWSTO EMPHASIZE TRIBAL CONSULTATION AND THE ROLE OF INDIAN LANGUAGE AND CULTURAL SPECIALISTS; PLACING ADDITIONAL REQUIREMENTS ON THE BOARD OF PUBLIC EDUCATION AND THE OFFICE OF PUBLIC INSTRUCTION TO IMPROVE INDIAN EDUCATION FOR ALL AND STRENGTHEN ACCOUNTABILITY; CLARIFYING THE

DUTIES OF THE OFFICE OF PUBLIC INSTRUCTION FOR FINANCIAL ACCOUNTABILITY OF INDIAN EDUCATION FOR ALL FUNDS PROVIDED BY THE STATE TO SCHOOL DISTRICTS; ESTABLISHING REPORTING REQUIREMENTS; REVISING A DEFINITION; AMENDING SECTIONS 20-1-501, 20-1-502, 20-1-503, 20-7-101, AND 20-9-329, MCA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article X, section 1(2), of the Montana Constitution states: “The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity”; and

WHEREAS, the Montana Legislature has honored this commitment in several ways, including through the creation of Indian Education for All; and

WHEREAS, accountability for school districts in providing Indian Education for All and for the funding provided by the Legislature for Indian Education for All has been lacking; and

WHEREAS, this lack of accountability has resulted in costly and protracted litigation.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-1-501, MCA, is amended to read:

“20-1-501. Recognition of American Indian cultural heritage – legislative intent. (1) It is the constitutionally declared policy of this state to recognize the distinct and unique cultural heritage of American Indians and to be committed in its educational goals to the preservation of their cultural heritage.

(2) It is the intent of the legislature that in accordance with Article X, section 1(2), of the Montana constitution:

(a) every Montanan, whether Indian or non-Indian, learn about the distinct and unique heritage of American Indians in a culturally responsive manner; and

(b) every educational agency work ~~cooperatively~~ *in consultation* with Montana tribes or those tribes that are in close proximity, when providing instruction or when implementing an educational goal or adopting a rule related to the education of each Montana citizen, to include information specific to the cultural heritage and contemporary contributions of American Indians, with particular emphasis on Montana Indian tribal groups and governments.

(3) It is also the intent of this part, predicated on the belief that all school personnel should have an understanding and awareness of Indian tribes to help them relate effectively with Indian students and parents, that educational agencies provide means by which school personnel will gain an understanding of and appreciation for the American Indian people.”

Section 2. Section 20-1-502, MCA, is amended to read:

“20-1-502. American Indian studies – definitions. As used in this part, the following definitions apply:

(1) “American Indian studies” means instruction pertaining to the history, traditions, customs, values, beliefs, ethics, language, and contemporary affairs of American Indians, particularly Indian tribal groups in Montana.

(2) “Educational agency” means:

(a) the Montana university system;

(b) professional educator preparation programs accredited by the board of public education;

(c) the board of public education;

(d) the office of public instruction; and

(e) school districts.

(3) "Instruction" means:

(a) a formal course of study or class, developed ~~with the advice and assistance of Indian people in consultation with Montana tribes~~, that is offered separately or that is integrated into existing accreditation standards by a unit of the university system or by an accredited tribal community college located in Montana, including a teacher education program within the university system or a tribal community college located in Montana, or by the board of trustees of a school district;

(b) inservice training developed by the superintendent of public instruction in cooperation with educators of Indian descent and made available to school districts;

(c) inservice training provided by a local board of trustees of a school district, which is developed and conducted in cooperation with tribal education departments, tribal community colleges, or other recognized Indian education resource specialists; or

(d) inservice training developed by professional education organizations or associations in cooperation with educators of Indian descent and made available to all certified and classified personnel."

Section 3. Section 20-1-503, MCA, is amended to read:

"20-1-503. Indian education for all – requirements – reporting.

(1) Pursuant to this part and 20-9-329 and the definition of basic system of free quality public elementary and secondary schools under 20-9-309, the board of trustees of a school district shall:

(a) require that all certified personnel and all students receive instruction in American Indian studies; and

(b) *in meeting the requirements of subsection (1)(a), utilize the specialist services of Indian language and culture specialists licensed under the rules of the board of public education to the greatest extent possible.*

(2) Members of boards of trustees and all noncertified personnel in public school districts are encouraged to satisfy the requirements for instruction in American Indian studies.

(3) (a) Pursuant to Article X, section 1(2), of the Montana constitution, 20-1-501, 20-7-101, and 20-9-309, the board of public education shall incorporate the distinct and unique cultural heritage of Montana American Indians in the content *and performance* standards that schools must implement as a requirement for school accreditation.

(b) The superintendent of *public instruction* shall include representatives of Montana Indian tribes on negotiated rulemaking committees formed pursuant to 20-7-101 addressing the development or revision of content *and performance* standards under subsection (3)(a).

(4) *The board of public education and the superintendent of public instruction shall abide by the guiding principles and documentation requirements under 2-15-142 in fulfilling duties pursuant to this part.*

(5) *Educational agencies and their personnel are encouraged to participate in ongoing education in American Indian studies.*

(6) *The office of public instruction shall:*

(a) *create an online portal for submitting feedback from parents, students, and educators about the implementation of the requirements of this part;*

(b) *respond to and address the feedback received in a manner that aims to continually improve the quality of American Indian studies under this part; and*

(c) *report annually to the education interim committee and the state-tribal relations committee in accordance with 5-11-210 on:*

(i) the feedback received, responses provided, and improvements made under this subsection (6); and

(ii) school districts failing to report or report satisfactorily in the same manner as described in 20-9-329(6)(a).

(7) In supporting school districts in fulfilling the requirements of this part, the office of public instruction shall integrate its efforts to the greatest extent possible with the Montana Indian language preservation program under 20-9-537.”

Section 4. Section 20-7-101, MCA, is amended to read:

“20-7-101. Accreditation standards – process for adoption. (1) (a) Accreditation standards, as defined in 20-1-101, for all schools must be adopted by the board of public education upon the recommendations of the superintendent of public instruction. The superintendent shall develop recommendations in accordance with subsection (2). For an accreditation standard that requires implementation by school districts, the recommendations presented to the board must include an economic impact statement, as described in 2-4-405, prepared in consultation with the negotiated rulemaking committee under subsection (2).

(b) For accreditation standards addressing academic requirements, program area standards, or content and performance standards, the economic impact statement under subsection (1)(a) must include an analysis of the ability of school districts to implement the standard within existing resources, including time. The intent of this subsection (1)(b) is to ensure that school districts have the capacity to adhere to required accreditation standards within a basic system of free quality public elementary and secondary schools.

(2) The accreditation standards recommended by the superintendent of public instruction must be developed through the negotiated rulemaking process under Title 2, chapter 5, part 1. The superintendent may form a negotiated rulemaking committee for accreditation standards to consider multiple proposals. The negotiated rulemaking committee may not exist for longer than 2 years. The committee must represent the diverse circumstances of schools of all sizes across the state and must include representatives from the following groups:

- (a) school district trustees;
- (b) school administrators;
- (c) teachers;
- (d) school business officials;
- (e) parents; ~~and~~
- (f) taxpayers; *and*

(g) for content and performance standard revisions, representatives of Montana Indian tribes, as required under 20-1-503.

(3) Prior to adoption or amendment of any accreditation standard, the board shall submit each proposal, including the economic impact statement required under subsection (1), to:

(a) during a regular legislative session, the joint appropriations subcommittee on education; or

(b) during the legislative interim, the education interim budget committee established in 5-12-501, for review at least 1 month in advance of a scheduled committee meeting.

(4) Unless the expenditures by school districts required under the proposal are determined by the appropriate committee under subsection (3) to be insubstantial expenditures that can be readily absorbed into the budgets of existing district programs, the board may not implement the standard until July 1 following:

(a) under subsection (3)(a), the current legislative session; or

(b) under subsection (3)(b), the next regular legislative session and shall request the superintendent of public instruction include a request in the superintendent's budget that the same legislature fund implementation of the proposed standard.

(5) The provisions of this section may not be construed to reduce or limit the authority of the education interim committee to review administrative rules, including accreditation standards, within its jurisdiction pursuant to 5-5-215.

(6) Standards for the retention of school records must be as provided in 20-1-212."

Section 5. Section 20-9-329, MCA, is amended to read:

"20-9-329. Indian education for all payment. (1) Except as provided in subsection (5), the state shall provide an Indian education for all payment to public school districts, as defined in 20-6-101 and 20-6-701, to implement the provisions of Article X, section 1(2), of the Montana constitution and Title 20, chapter 1, part 5.

(2) The Indian education for all payment is calculated as provided in 20-9-306 and is a component of the BASE budget of the district.

(3) The district shall deposit the payment in the general fund of the district.

(4) (a) A public school district that receives an Indian education for all payment may not divert the funds to any purpose other than curriculum development of an American Indian studies program, providing curriculum and materials to students for the program, and providing training to teachers about the program's curriculum and materials.

(b) A public school district shall file an annual report with the office of public instruction, in a form and by a date prescribed by the superintendent of public instruction, that specifies how the Indian education for all funds were expended in the prior school fiscal year in sufficient detail to ensure that all the funds were properly spent for the purposes under subsection (4)(a) In addition to the expenditure reporting, the report must include detailed descriptions of:

(i) the instruction provided to certified personnel and students as required under 20-1-503; and

(ii) how this instruction was developed cooperatively with the advice and assistance of Montana tribes pursuant to Title 20, chapter 1, part 5.

(5) (a) ~~If a school district that fails to file the annual report required under subsection (4) is ineligible for the funding under this section, the office of public instruction shall reduce the school district's BASE and maximum budget limits and BASE aid funding by the full amount of the Indian education for all payment for subsequent school fiscal years until the report is filed.~~

(b) If a school district files a report failing to show that all funds received under this section were spent for the purposes of subsection (4)(a), ~~the office of public instruction shall reduce the school district's BASE and maximum budget limits and BASE aid funding under this section for the subsequent fiscal year must be reduced by the amount of funding received that was not spent for the purposes of subsection (4)(a).~~

(6) (a) *The office of public instruction shall publish an annual report on the office's website listing any school districts that fail to report or satisfactorily report under subsection (4) of this section.*

(b) *When a school district fails to report or satisfactorily report under subsection (4) of this section, this failure must be noted in the school accreditation status reports established by the board of public education pursuant to 20-7-102."*

Section 6. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 7. Effective date. [This act] is effective July 1, 2025.
Approved May 8, 2025

CHAPTER NO. 558

[SB 182]

AN ACT GENERALLY REVISING EDUCATION LAWS TO STRENGTHEN THE STATE'S COMMITMENT TO PRESERVING AMERICAN INDIAN CULTURAL INTEGRITY UNDER ARTICLE X, SECTION 1(2), OF THE MONTANA CONSTITUTION; PROVIDING GREATER FLEXIBILITY FOR THE EDUCATIONAL PARTNERSHIPS ENTERED INTO BY TRIBES IN THE MONTANA INDIAN LANGUAGE PRESERVATION PROGRAM; ENCOURAGING THE INTEGRATION OF EFFORTS BETWEEN THE MONTANA INDIAN LANGUAGE PRESERVATION PROGRAM AND THE INDIAN LANGUAGE IMMERSION PROGRAMS OF SCHOOL DISTRICTS; EMPHASIZING THE VALUE OF COLLABORATIVE PROFESSIONAL DEVELOPMENT AND THE USE OF MATERIALS PREVIOUSLY PRODUCED BY THE TRIBES UNDER THE PROGRAM THAT ARE HOUSED AT THE MONTANA HISTORICAL SOCIETY; AMENDING SECTION 20-9-537, MCA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article X, section 1(2), of the Montana Constitution states: "The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity"; and

WHEREAS, the Montana Legislature has honored this commitment in several ways, including through the creation of the Montana Indian language preservation program; and

WHEREAS, the Montana Legislature recognizes the fundamental principle and integrity of the government-to-government relationship between the State of Montana and the Indian Nations of Montana; and

WHEREAS, increasing tribal sovereignty in administering the Montana Indian language preservation program and allowing Montana tribes greater flexibility in how they implement the program with a greater variety of educational partners will only strengthen the impact of the program.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-9-537, MCA, is amended to read:

"20-9-537. Montana Indian language preservation program.

(1) There is a Montana Indian language preservation program. The program is established to support efforts of Montana tribes ~~and partnering school districts~~ to preserve and perpetuate Indian languages in the form of spoken, written, sung, or signed language and to help meet the state's educational goal of preserving the cultural integrity of American Indians under Article X, section 1(2), of the Montana constitution.

(2) (a) The office of public instruction shall administer the program and, in collaboration with each tribal government of a federally recognized Indian tribe in Montana, shall create program guidelines.

(b) The program guidelines must:

(i) describe the roles of tribal governments, of tribal education, culture, or language departments or other recognized Indian education resource specialists, and of ~~partnering school districts~~ *educational entities with which the tribe will partner, including but not limited to public school districts,*

community choice schools, nonpublic schools, tribal schools, postsecondary institutions, and early learning providers;

(ii) include definitions of language fluency in sufficient detail to allow measurement of progress toward Indian language preservation; and

(iii) address performance and output standards, distribution of funds, accounting of funds, and use of funds.

(3) (a) The office of public instruction shall equally distribute funds to tribal governments in a manner described in the program guidelines. A tribal government wishing to participate in the program shall submit an application to the office of public instruction that includes at a minimum:

(i) *if applicable*, statements of commitment from ~~school districts~~ *educational entities* with which the tribal government will partner through the program, including, *if applicable*, *descriptions of how the efforts of the Montana Indian language preservation program will be integrated into Indian language immersion programs of school districts pursuant to Title 20, chapter 7, part 14;*

(ii) a designation of a tribal entity to administer the program. The designation must be to the tribal education department or equivalent or, if the tribe does not have an education department, to another entity such as a tribal culture or language department or equivalent.

(iii) a description of the role of American Indian language and culture specialists in the program, including the number of specialists currently employed by partnering districts;

(iv) a detailed description of proposed curriculum development, instruction, and professional development activities, including:

(A) the role of American Indian language and culture specialists; *and*

(B) *the utilization of curriculum and other materials developed by the tribe under the program during the years 2013 through 2021 that are securely housed in perpetuity at the Montana historical society;*

(v) a description of how proposed activities support the tribal government's long-term strategy for Indian language preservation, including:

(A) an estimate of the current number of fluent speakers; and

(B) plans to build multigenerational fluency through:

(I) partnerships with early learning providers; and

(II) adult education offerings; and

(vi) a proposed budget for the expenditure of funds received under the program and any other anticipated funding sources. *The budget may include professional development opportunities. The tribal entities administering the program are encouraged to partner with one another and utilize national and international organizations with expertise in language preservation and perpetuation in designing professional development opportunities.*

(b) Tribal governments ~~and partnering school districts~~ shall report annually to the office of public instruction in a format prescribed in the program guidelines. A tribal government failing to meet the reporting requirements may not receive program funds until reporting requirements have been met.

(c) The office of public instruction shall report to the legislature, to the education interim committee, and to the state-tribal relations committee in accordance with 5-11-210. The report must include:

(i) current program guidelines as required in subsection (2);

(ii) a summary of each participating tribal government's activities under the program; and

(iii) metrics that indicate how well activities funded under this program are promoting language fluency.

(4) Any cultural and intellectual property rights from program efforts belong to the tribe. Use of the cultural and intellectual property may be negotiated between the tribe and other partnering entities.

(5) A tribe may use payments received pursuant to this section as matching funds for federal or private fund sources to accomplish the purposes of this section.”

Section 2. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 3. Effective date. [This act] is effective July 1, 2025.

Approved May 8, 2025

CHAPTER NO. 559

[SB 183]

AN ACT REQUIRING AN OUTFITTER ENDORSEMENT FOR GUIDE LICENSURE; AMENDING SECTION 37-47-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, professional relationships between guides and endorsing outfitters has been an industry tradition and licensure standard for generations; and

WHEREAS, existing statute allows for the licensure of guides without requiring an outfitter endorsement, thus reducing the industry’s ability to regulate its own professional standards; and

WHEREAS, public health, safety, and welfare is best served by ensuring that guides meet the qualifications and industry standards of Montana’s outfitters in addition to those of the Board of Outfitters.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-47-303, MCA, is amended to read:

“37-47-303. Guide’s qualifications. (1) An applicant for a guide’s license must:

(1)(a) be 18 years of age or older and be physically capable and mentally competent to perform the duties of a guide;

(2)(b) be endorsed and recommended by an outfitter with a valid license, *unless otherwise qualified under guide standards established by the board pursuant to 37-47-201(4)* ~~unless otherwise qualified under guide standards established by the board pursuant to 37-47-201(4);~~ and

(3)(c) have been issued a valid conservation license.

(2) *An application for renewal of a guide license must be signed by an outfitter employing a guide. If the application for renewal is not signed as required by this subsection, the application must be denied.”*

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 560

[SB 218]

AN ACT PROVIDING FOR A PRIVATE CAUSE OF ACTION FOR INJURIES CAUSED BY CERTAIN MEDICAL INTERVENTIONS AS TREATMENT OF GENDER DYSPHORIA; PROVIDING A STATUTE OF LIMITATIONS; AMENDING SECTION 27-2-205, MCA; REPEALING SECTION 50-4-1005, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Private cause of action for injuries caused by treatment of gender dysphoria – statute of limitations – definitions. (1) Any health care professional or physician who provides the medical treatments listed in subsection (4) to a minor, may be subject to a civil action if the medical treatment results in any injury, including physical, psychological, emotional, or physiological harms, that is proximately caused by a deviation from the applicable medical standard of care of the health care professional or physician as established by qualified expert testimony.

(2) Except as provided in subsection (3), a person who suffers an injury described in subsection (1) or the person's legal guardian or estate may bring a civil action with respect to the injury within 2 years from the time of discovery by the injured party of both the injury and the causal relationship between the medical treatment and the injury against the offending health care professional or physician in a court of competent jurisdiction for:

- (a) declaratory or injunctive relief;
- (b) compensatory damages; and
- (c) any other appropriate relief.

(3) (a) If the person subjected to medical treatment is under legal disability at the time the person discovers the injury and the causal relationship between the medical treatment and the injury, the limitation period in subsection (2) does not begin to run until the removal of the disability.

(b) The limitation period in subsection (2) does not run until the minor reaches the age of 23 or during a time period when the individual is subject to threats, intimidation, manipulation, fraudulent concealment, or fraud perpetrated by the health care professional or physician who provided the medical treatment described in subsection (1) or by any person acting in the interest of the health care professional or physician.

(4) (a) Except as provided in subsection (5), a health care professional or physician may be found liable under subsection (1) for an injury proximately caused by a deviation from the applicable medical standard of care of the health care professional or physician, as established by qualified expert testimony, in providing the following treatments to a minor female patient to address the patient's perception that the patient's gender or sex is not female:

(i) surgical procedures, including a vaginectomy, hysterectomy, oophorectomy, ovariectomy, reconstruction of the urethra, metoidioplasty, phalloplasty, scrotoplasty, implantation of erection or testicular prostheses, subcutaneous mastectomy, voice surgery, or pectoral implants;

(ii) supraphysiologic doses of testosterone or other androgens; or

(iii) puberty blockers such as GnRH agonists or other synthetic drugs that suppress the production of estrogen and progesterone to delay or suppress pubertal development in female minors.

(b) Except as provided in subsection (5), a health care professional or physician may be found liable under subsection (1) for an injury proximately caused by a deviation from the applicable medical standard of care of the health care professional or physician, as established by qualified expert testimony, in providing the following treatments to a minor male patient to address the patient's perception that the patient's gender or sex is not male:

(i) surgical procedures, including a penectomy, orchiectomy, vaginoplasty, clitoroplasty, vulvoplasty, augmentation mammoplasty, facial feminization surgery, voice surgery, thyroid cartilage reduction, or gluteal augmentation;

(ii) supraphysiologic doses of estrogen; or

(iii) puberty blockers such as GnRH agonists or other synthetic drugs that suppress the production of testosterone or delay or suppress pubertal development in male minors.

(5) The medical treatments listed in subsections (4)(a) and (4)(b) may be the basis of a claim under subsection (1) only when knowingly provided to address a minor female patient's perception that the patient's gender or sex is not female or a minor male patient's perception that the patient's gender or sex is not male and only when performed in a manner that deviates from the applicable medical standard of care as established by qualified expert testimony. Subsections (4)(a) and (4)(b) do not apply for other purposes, including:

(a) treatment for a person born with a medically verifiable disorder of sex development, including:

(i) a person born with external biological sex characteristics that are irresolvably ambiguous, including an individual born with 46 XX chromosomes with virilization, an individual born with 46 XY chromosomes with undervirilization, or an individual having both ovarian and testicular tissue; and

(ii) a person whom a physician has otherwise diagnosed with a disorder of sexual development in which the physician has determined through genetic or biochemical testing that the person does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female;

(b) treatment of any infection, injury, disease, or disorder that has been caused or exacerbated by a medical treatment listed in subsection (4)(a) or (4)(b), whether or not the medical treatment was performed in accordance with state and federal law and whether or not funding for the medical treatment is permissible under state and federal law; or

(c) any other clinically appropriate or evidence-based basis for the treatment.

(6) As used in this section, unless the context clearly indicates otherwise, the following definitions apply:

(a) "Female" means a member of the human species who, under normal development, has XX chromosomes and produces or would produce relatively large, relatively immobile gametes, or eggs, during her life cycle and has a reproductive and endocrine system oriented around the production of those gametes. An individual who would otherwise fall within this definition, but for a biological or genetic condition, is female for the purposes of this section.

(b) "Gender" means the psychological, behavioral, social, and cultural aspects of being male or female.

(c) "Health care professional" means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of the person's profession.

(d) "Male" means a member of the human species who, under normal development, has XY chromosomes and produces or would produce small, mobile gametes, or sperm, during his life cycle and has a reproductive and endocrine system oriented around the production of those gametes. An individual who would otherwise fall within this definition, but for a biological or genetic condition, is male for the purposes of this section.

(e) "Physician" means a person who is licensed to practice medicine in this state.

(f) "Sex" means the organization of body parts and gametes for reproduction in human beings and other organisms. In human beings, there are exactly two sexes, male and female, with two corresponding types of gametes. The

sexes are determined by the biological and genetic indication of male or female, including sex chromosomes, naturally occurring sex chromosomes, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, behavioral, social, cultural, chosen, or subjective experience of gender.

Section 2. Section 27-2-205, MCA, is amended to read:

“27-2-205. Actions for medical malpractice. (1) Action in tort or contract for injury or death against a physician or surgeon, physician assistant, dentist, dental hygienist, registered nurse, advanced practice registered nurse, nursing home or hospital administrator, dispensing optician, optometrist, licensed physical therapist, podiatrist, psychologist, osteopath, chiropractor, clinical laboratory bioanalyst, clinical laboratory technologist, pharmacist, veterinarian, a licensed hospital or long-term care facility, or licensed medical professional corporation, based upon alleged professional negligence or for rendering professional services without consent or for an act, error, or omission, must, except as provided in ~~subsection~~ *subsections (2) and (3)*, be commenced within 2 years after the date of injury or within 2 years after the plaintiff discovers or through the use of reasonable diligence should have discovered the injury, whichever occurs last, but in no case may an action be commenced after 5 years from the date of injury. However, this time limitation is tolled for any period during which there has been a failure to disclose any act, error, or omission upon which an action is based and that is known to the defendant or through the use of reasonable diligence subsequent to the act, error, or omission would have been known to the defendant.

(2) Notwithstanding the provisions of 27-2-401, in an action for death or injury of a minor who was under the age of 4 on the date of the minor's injury, the period of limitations in subsection (1) begins to run when the minor reaches the minor's eighth birthday or dies, whichever occurs first, and the time for commencement of the action is tolled during any period during which the minor does not reside with a parent or guardian.

(3) *In an action brought for an injury described in [section 1], the time limitation in subsection (1) is tolled until the plaintiff discovers both the injury and the causal relationship between the medical treatment and the injury.”*

Section 3. Repealer. The following section of the Montana Code Annotated is repealed:

50-4-1005. Private cause of action for subsequent harm.

Section 4. Codification instruction. [Section 1] is intended to be codified as a new part in Title 50, chapter 4, and the provisions of Title 50, chapter 4, apply to [section 1].

Section 5. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 6. Effective date. [This act] is effective July 1, 2025.

Approved May 8, 2025

CHAPTER NO. 561

[SB 224]

AN ACT ESTABLISHING INDIGENOUS PEOPLES' DAY AS A LEGAL HOLIDAY IN MONTANA; AND AMENDING SECTION 1-1-216, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 1-1-216, MCA, is amended to read:

“1-1-216. Legal holidays and business days. (1) The following are legal holidays in the state of Montana:

- (a) Each Sunday;
- (b) New Year’s Day, January 1;
- (c) Martin Luther King Jr. Day, the third Monday in January;
- (d) ~~Lincoln’s and Washington’s Birthdays~~ *Presidents’ Day*, the third Monday in February;
- (e) Memorial Day, the last Monday in May;
- (f) Independence Day, July 4;
- (g) Labor Day, the first Monday in September;
- (h) *Indigenous Peoples’ Day* and Columbus Day, the second Monday in October;
- (i) Veterans’ Day, November 11;
- (j) Thanksgiving Day, the fourth Thursday in November;
- (k) Christmas Day, December 25;
- (l) State general election day.

(2) (a) If any of the holidays in subsection (1)(b) through (1)(l) fall on a Sunday, the Monday following is a holiday.

(b) If any of the holidays in subsection (1)(b) through (1)(l) fall on a Saturday, the Friday preceding is a holiday.

(c) All other days are business days.”

Section 2. Notification to Montana supreme court. The secretary of state shall send a copy of [this act] to the Montana supreme court. The Montana supreme court is requested to update the definition of “legal holiday” in its rules of civil procedure to reflect the provisions of [section 1].

Section 3. Notification to local governments. The secretary of state shall send a copy of [this act] to the Montana league of cities and towns and to the Montana association of counties.

Section 4. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Approved May 8, 2025

CHAPTER NO. 562

[SB 237]

AN ACT REQUIRING THE REVENUE INTERIM COMMITTEE TO MAKE A RECOMMENDATION TO THE LEGISLATURE ABOUT WHETHER TO REVISE PROPERTY TAX RATES BASED ON THE TAXABLE VALUE NEUTRALITY REPORT; AND AMENDING SECTIONS 5-5-227 AND 15-7-111, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-5-227, MCA, is amended to read:

“5-5-227. Revenue interim committee – powers and duties – revenue estimating and use of estimates. (1) The revenue interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the Montana tax appeal board established in 2-15-1015 and for the department of revenue and the entities attached to the department for administrative purposes, except the divisions

of the department that administer the Montana Alcoholic Beverage Code and the Montana Marijuana Regulation and Taxation Act.

(2) (a) The committee must have prepared by December 1 for introduction during each regular session of the legislature in which a revenue bill is under consideration an estimate of the amount of revenue projected to be available for legislative appropriation.

(b) The committee may prepare for introduction during a special session of the legislature in which a revenue bill or an appropriation bill is under consideration an estimate of the amount of projected revenue. The revenue estimate is considered a subject specified in the call of a special session under 5-3-101.

(3) The committee's estimate, as introduced in the legislature, constitutes the legislature's current revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the legislature's estimates and the assumptions underlying the estimates will be used by all agencies with responsibilities for estimating revenue or costs, including the preparation of fiscal notes.

(4) The legislative services division shall provide staff assistance to the committee. The committee may request the assistance of the staffs of the office of the legislative fiscal analyst, the legislative auditor, the department of revenue, and any other agency that has information regarding any of the tax or revenue bases of the state.

(5) The committee shall review tax credits as provided in 15-30-2303.

(6) *The committee shall make a recommendation to the next legislature about whether to revise property tax rates based on the report provided in 15-7-111. The committee may evaluate the impact of the tax rates on property taxes, the maximum levy authorized under 15-10-420, and levies voted pursuant to 15-10-425."*

Section 2. Section 15-7-111, MCA, is amended to read:

"15-7-111. Periodic reappraisal of certain taxable property. (1) (a) The department shall administer and supervise a program for the reappraisal of all taxable property within class three under 15-6-133, class four under 15-6-134, and class ten under 15-6-143 as provided in this section. All property within class three, class four, and class ten must be revalued every 2 years. Except as provided in subsection (1)(b), all other property must be revalued annually.

(b) Beginning January 1, 2024, all centrally assessed property must be revalued in the time periods provided for in 15-23-101(2).

(2) The department shall value newly constructed, remodeled, or reclassified property in a manner consistent with the valuation within the same class and the values established pursuant to subsection (1). The department shall adopt rules for determining the assessed valuation of new, remodeled, or reclassified property within the same class.

(3) The reappraisal of class three, class four, and class ten property is complete on December 31 of every second year of the reappraisal cycle.

(4) During the second year of each reappraisal cycle, the department shall provide the revenue interim committee with a report, in accordance with 5-11-210, of tax rates for the upcoming reappraisal cycle that will result in taxable value neutrality for each property class. *The revenue interim committee shall make a recommendation to the next legislature about whether to revise property tax rates based on the report.*

(5) The department shall administer and supervise a program for the reappraisal of all taxable property within class three, class four, and class ten. The department shall adopt a reappraisal plan by rule. The reappraisal plan

adopted must provide that all class three, class four, and class ten property in each county is revalued by January 1 of the second year of the reappraisal cycle, effective for January 1 of the following year, and each succeeding 2 years.

(6) (a) In completing the appraisal or adjustments under subsection (5), the department shall, as provided in the reappraisal plan, conduct individual property inspections, building permit reviews, sales data verification reviews, and electronic data reviews. The department may adopt new technologies for recognizing changes to property.

(b) The department shall conduct a field inspection of a sufficient number of taxable properties to meet the requirements of subsection (5).

(7) (a) In each notice of reappraisal sent to a taxpayer, the department, with the support of the department of administration, shall provide to the taxpayer information on:

(i) the consumer price index adjusted for population and the average annual growth rate of Montana personal income; and

(ii) the estimated annualized change in property taxes levied over the previous 10 years by the state, county, and any incorporated cities or towns within the county and local school average mills by county.

(b) In every even-numbered year, the department shall publish in a newspaper of general circulation in each county the information required pursuant to subsection (7)(a) by the second Monday in October.”

Approved May 8, 2025

CHAPTER NO. 563

[SB 238]

AN ACT ESTABLISHING THE SUPPORTING BOWHUNTERS WITH DISABILITIES PROGRAM; PROVIDING FOR AN OPTIONAL DONATION ON CERTAIN HUNTING LICENSES; ESTABLISHING THE SUPPORTING BOWHUNTERS WITH DISABILITIES ACCOUNT; PROVIDING FOR DONATIONS TO BE DEPOSITED INTO THE ACCOUNT; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 87-1-601 AND 87-2-903, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Supporting bowhunters with disabilities program – findings – optional donation – rulemaking. (1) The legislature finds that:

(a) archery hunting is an important part of Montana’s harvest heritage that should be accessible to as many individuals as possible;

(b) some hunters require expensive modified archery equipment specifically designed to accommodate their disability;

(c) charitable and nonprofit organizations assist in defraying the costs of modified archery equipment for some hunters;

(d) donations can help organizations provide more modified archery equipment to more hunters with disabilities; and

(e) hunters should have the option of donating \$1 or more above the purchase price of certain licenses to assist organizations in being able to provide modified archery equipment to greater numbers of hunters with disabilities.

(2) A person who applies for or purchases a hunting license may donate \$1 or more in addition to the price of the license to the supporting bowhunters with disabilities program.

(3) The department shall deposit donations received pursuant to this section into the supporting bowhunters with disabilities account established in [section 2].

(4) The department shall adopt rules to implement the provisions of this section, including:

(a) providing the forms or mechanisms necessary for the supporting bowhunters with disabilities donation option;

(b) regulating the payment of funds from the supporting bowhunters with disabilities account to a nonprofit organization exempt from taxation under 26 U.S.C. 501(c)(3) to acquire modified archery equipment for hunters who have a permit to modify archery equipment; and

(c) establishing guidelines for the donation of modified archery equipment purchased with funds from the supporting bowhunters with disabilities account to Montana hunters who have a permit to modify archery equipment.

Section 2. Supporting bowhunters with disabilities account.

(1) There is a supporting bowhunters with disabilities account in the state special revenue fund established by 17-2-102. Funds deposited into this account must be used by the department for the purposes of [section 1].

(2) The following money must be deposited into the account:

(a) donations received pursuant to [section 1];

(b) interest earned on the account; and

(c) money received by the department in the form of gifts or grants or from any source intended to be used for the purposes of [section 1].

(3) Any money in the account that is unspent or unencumbered at the end of a fiscal year must remain in the account.

Section 3. Section 87-1-601, MCA, is amended to read:

“87-1-601. Use of fish and game money. (1) (a) Except as provided in 87-1-290, 87-1-293, 87-1-623, [section 1], and subsections (8) and (10) of this section, all money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from damages collected for violations of the fish and game laws of this state, or from appropriations or received by the department from any other state source must be turned over to the department of revenue and placed in the state special revenue fund to the credit of the department.

(b) Any money received from federal sources must be deposited in the federal special revenue fund to the credit of the department.

(c) All interest earned on money from the following sources must be placed in the state special revenue fund to the credit of the department:

(i) the general license account;

(ii) the license drawing account;

(iii) accounts established to administer the provisions of 87-1-246, 87-1-258, 87-1-605, 87-2-411, 87-2-722, and 87-2-724; and

(iv) money received from the sale of any other hunting and fishing license.

(2) Except as provided in 87-2-411, the money described in subsection (1) must be exclusively set apart and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be made by the department under the terms of this title. The money described in subsection (1) must be spent for those purposes by the department, subject to appropriation by the legislature.

(3) Any reference to the fish and game fund in Title 87 means fish and game money in the state special revenue fund and the federal special revenue fund.

(4) Except as provided in subsections (8) and (9), all money collected or received from fines and forfeited bonds, except money collected or received by a justice's court, that relates to violations of state fish and game laws under

Title 87 must be deposited by the department of revenue and credited to the department in a state special revenue fund account for this purpose. Out of any fine imposed by a court for the violation of the fish and game laws, the costs of prosecution must be paid to the county where the trial was held in any case in which the fine is not imposed in addition to the costs of prosecution.

(5) (a) Except as provided in 87-1-621, section 2(3), Chapter 560, Laws of 2005, and subsection (6) of this section, money must be deposited in an account in the permanent fund if it is received by the department from:

(i) the sale of surplus real property;

(ii) exploration or development of oil, gas, or mineral deposits from lands acquired by the department, except royalties or other compensation based on production; and

(iii) leases of interests in department real property not contemplated at the time of acquisition.

(b) The interest derived from the account, but not the principal, may be used only for the purpose of operation, development, and maintenance of real property of the department and only upon appropriation by the legislature. If the use of money as set forth in this section would result in violation of applicable federal laws or state statutes specifically naming the department or money received by the department, then the use of this money must be limited in the manner, method, and amount to those uses that do not result in a violation.

(6) Money received from the sale or lease of lands acquired and managed for the purposes of Title 23, chapter 1, must be deposited in the state special revenue fund in the account established for miscellaneous funds received for state parks and may be used only for the purposes of Title 23, chapter 1.

(7) Money received from the collection of license drawing applications is subject to the deposit requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant to 17-6-105(8).

(8) Money collected or received from fines or forfeited bonds for the violation of 77-1-801, 77-1-806, or rules adopted under 77-1-804 must be deposited in the state general fund.

(9) The department of revenue shall deposit in the state general fund one-half of the money received from the fines imposed pursuant to Title 87, chapter 6.

(10) The department shall deposit all money received from the voluntary search and rescue donation in 87-2-202 in a state special revenue account to the credit of the department for search and rescue purposes as provided for in 10-3-801."

Section 4. Section 87-2-903, MCA, is amended to read:

"87-2-903. Compensation, fees, and duties of agents – penalty for late submission of license money. (1) License agents, except salaried employees of the department, must receive for all services rendered a commission of 50 cents for each transaction, plus any additional amount as determined under subsection (9) and by rules adopted pursuant to subsection (10).

(2) A license agent may charge a convenience fee of up to 3% of the total amount of a transaction if a purchase is made with a credit card or a debit card. A financial institution or credit card company may not prohibit collection of the convenience fee provided for in this subsection.

(3) Each license agent shall submit to the department the money received from the sale of licenses and aquatic invasive species prevention passes and from donations received pursuant to [76-17-102,] 81-7-123, and 87-1-293, and [section 1] less the appropriate commission and convenience fee.

(4) Each license agent shall submit to the department copies of each paper license sold.

(5) The department may charge license agents appointed after March 1, 1998, an electronic license system fee not to exceed actual costs.

(6) The department may designate classes of license agents and may establish a protocol for each class of agent. Each license agent shall keep the license account open at all reasonable hours to inspection by the department, the director, the wardens, or the legislative auditor.

(7) For purposes of this section, the term “transaction” includes the sale of any license or permit, collection of any data or fee, or issuance of any certificate prescribed by the department. The term does not include donations collected pursuant to [76-17-102,] 81-7-123, ~~and 87-1-293~~, *and [section 1]* or the sale of aquatic invasive species prevention passes pursuant to 23-2-541 or 87-2-130.

(8) If a license agent fails to submit to the department all money received from the declared sale of licenses and aquatic invasive species prevention passes and from donations received pursuant to [76-17-102,] 81-7-123, ~~and 87-1-293~~, *and [section 1]* less the appropriate commission and convenience fee; by the deadline established by the department, an interest charge equal to the rate charged under 15-1-216 may be assessed. Acceptance of late payments with interest does not preclude the department from summarily revoking the appointment of a license agent under 87-2-904.

(9) A license agent, except for an electronic service provider, must receive a commission of 50 cents for each ticket the agent processes for a hunting license lottery held pursuant to 87-1-271.

(10) The department may adopt rules necessary to implement this section. (Bracketed language terminates June 30, 2027--sec. 10, Ch. 374, L. 2017.)”

Section 5. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 87, chapter 1, part 2, and the provisions of Title 87, chapter 1, part 2, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 87, chapter 1, part 6, and the provisions of Title 87, chapter 1, part 6, apply to [section 2].

Section 6. Effective date. [This act] is effective July 1, 2025.

Approved May 8, 2025

CHAPTER NO. 564

[SB 247]

AN ACT CLASSIFYING SHOOTING RANGES AS CLASS FOUR PROPERTY FOR THE PURPOSES OF TAXATION; REVISING THE TAX RATE FOR SHOOTING RANGES; PROVIDING A DEFINITION; AMENDING SECTION 15-6-134, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-6-134, MCA, is amended to read:

“15-6-134. Class four property -- description -- taxable percentage.

(1) Class four property includes:

(a) subject to subsection (1)(e), all land, except that specifically included in another class;

(b) subject to subsection (1)(e):

(i) all improvements, including single-family residences, trailers, manufactured homes, or mobile homes used as a residence, except those specifically included in another class;

(ii) appurtenant improvements to the residences, including the parcels of land upon which the residences are located and any leasehold improvements;

(iii) vacant residential lots; and

(iv) rental multifamily dwelling units.

(c) all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202, including 1 acre of real property beneath improvements on land described in 15-6-133(1)(c). The 1 acre must be valued at market value.

(d) 1 acre of real property beneath an improvement used as a residence on land eligible for valuation, assessment, and taxation as forest land under 15-6-143. The 1 acre must be valued at market value.

(e) all commercial and industrial property, as defined in 15-1-101, and including:

(i) all commercial and industrial property that is used or owned by an individual, a business, a trade, a corporation, a limited liability company, or a partnership and that is used primarily for the production of income;

(ii) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least nine holes and not less than 700 lineal yards;

(iii) commercial buildings and parcels of land upon which the buildings are situated;

(iv) *shooting ranges that are not exempt from property taxes under 15-6-201 and are operated by an entity that is a nonprofit corporation exempt from taxation under 26 U.S.C. 501(c)(3) or 501(c)(4) of the Internal Revenue Code, as amended, and incorporated or admitted under a certificate of authority under the Montana Nonprofit Corporation Act as provided in Title 35, chapter 2; and*

(iv)(v) vacant commercial lots.

(2) If a property includes both residential and commercial uses, the property is classified and appraised as follows:

(a) the land use with the highest percentage of total value is the use that is assigned to the property; and

(b) the improvements are apportioned according to the use of the improvements.

(3) (a) Except as provided in 15-24-1402, 15-24-1501, 15-24-1502, and subsection (3)(b), class four residential property described in subsections (1)(a) through (1)(d) of this section is taxed at 1.35% of market value.

(b) The tax rate for the portion of the market value of a single-family residential dwelling in excess of \$1.5 million is the residential property tax rate in subsection (3)(a) multiplied by 1.4.

(c) The tax rate for commercial property is the residential property tax rate in subsection (3)(a) multiplied by 1.4.

(4) Property described in ~~subsection~~ subsections (1)(e)(ii) and (1)(e)(iv) is taxed at one-half the tax rate established in subsection (3)(c).

(5) (a) *As used in this section, "shooting range" means buildings, improvements, and appurtenant land of up to 150 acres that is reasonably necessary to provide a safe and suitable place for people to discharge firearms.*

(b) *The term does not include a residence, the 1 acre beneath a residence, improvements or land used for a commercial business, or any improvements that are not integral to providing a safe and suitable place for people to discharge firearms."*

Section 2. Applicability. [This act] applies to tax years beginning after December 31, 2025.

Approved May 8, 2025

CHAPTER NO. 565

[SB 257]

AN ACT REVISING THE COST FOR NONRESIDENT SMITH RIVER BONUS POINTS; AMENDING SECTION 23-2-409, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 23-2-409, MCA, is amended to read:

“23-2-409. Allocation of user fees – expenditure of Smith River corridor enhancement account. (1) All money collected as recreational and commercial user fees for floating and camping on the Smith River waterway pursuant to 23-2-408 must be deposited in the state treasury in the Smith River corridor enhancement account in the state special revenue fund to the credit of the department.

(2) (a) The following portions of recreational and commercial user fees deposited in the Smith River corridor enhancement account must be used for the purposes in subsection (2)(b):

- (i) \$50 of each commercial outfitter client fee;
- (ii) all revenue from the sale of super permit lottery chances;
- (iii) all revenue from sales of a resident-only \$5 bonus point and a nonresident ~~\$50~~ *\$125* bonus point; and
- (iv) 5% of other float fee revenue, except for the nonrefundable permit application fee.

(b) The sum of the funds described in subsection (2)(a) must be expended to:

(i) protect and enhance the integrity of the natural and scenic beauty of the Smith River waterway and its recreational, fisheries, and wildlife values through the lease or acquisition of property, including lease or acquisition of partial interests in property by the department within the Smith River corridor;

(ii) pursue projects that serve to protect, enhance, and restore fisheries habitat, streambank stabilization, erosion control, and recreational values within the Smith River corridor, including Smith River tributaries; and

(iii) pursue projects that serve to maintain and enhance instream flows for recognized recreational and aquatic ecosystem values in the Smith River corridor.

(3) All other funds in the Smith River corridor enhancement account may be used to manage, operate, and maintain the Smith River corridor.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 566

[SB 296]

AN ACT ESTABLISHING AN ENHANCED PENALTY FOR A PERSON EMPLOYED OR VOLUNTEERING IN A CAREGIVING FACILITY WHO IS FOUND GUILTY OF AN OFFENSE AGAINST A VULNERABLE PERSON IN THAT CAREGIVING FACILITY; PROVIDING FOR ALAN’S LAW; AND PROVIDING DEFINITIONS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 and 2] may be cited as “Alan’s Law”.

Section 2. Additional sentence for offenses committed against a vulnerable person. (1) If the provisions of 46-1-401 are complied with, an individual who is found guilty of a misdemeanor offense under Title 45, chapter 5, or a felony offense while employed or volunteering in a caregiving facility and who committed the offense against a vulnerable person in the facility in which the individual was employed or volunteering shall, in addition to the punishment provided for the commission of the underlying offense, be sentenced to a term of imprisonment in the state prison of not less than 1 year or more than 10 years, except as provided in 46-18-222.

(2) An additional sentence prescribed by this section must run consecutively to the sentence provided for the offense.

(3) For the purposes of this section, the following definitions apply:

(a) "Caregiving facility" means:

(i) a mental health facility as provided in 53-21-102;

(ii) an assisted living facility licensed under 50-5-227;

(iii) a long-term care facility, an adult day-care center, a mental health center, a medical assistance facility, or a nonprofit health care facility as provided in 50-5-101;

(iv) a community group home for developmentally disabled, mentally disabled, or severely disabled persons that does not provide skilled or intermediate nursing care;

(v) a licensed adult foster family care home;

(vi) a halfway house operated in accordance with regulations of the department of public health and human services for the rehabilitation of alcoholics or drug-dependent persons;

(vii) a youth foster home, a kinship foster home, a youth shelter care facility, a transitional living program, or a youth group home as provided in 52-2-602;

(viii) a day-care center, a day-care facility, a family day-care home, or a group day-care home as provided in 52-2-703; or

(ix) a public or nonpublic school.

(b) "Vulnerable person" means:

(i) a child; or

(ii) a vulnerable adult as provided in 52-3-803(1)(b).

Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 46, chapter 18, part 2, and the provisions of Title 46, chapter 18, part 2, apply to [sections 1 and 2].

Approved May 8, 2025

CHAPTER NO. 567

[SB 297]

AN ACT GENERALLY REVISING PRIVACY LAWS; PROVIDING DEFINITIONS; REQUIRING NOTIFICATION TO CONSUMERS THAT CERTAIN INFORMATION HAS BEEN COLLECTED; REQUIRING AN OPT-OUT OPTION FOR CONSUMERS; REQUIRING A PRIVACY NOTICE FROM CONTROLLERS; REQUIRING THE ATTORNEY GENERAL TO POST RIGHTS AND RESPONSIBILITIES INFORMATION ONLINE; SPECIFYING CONTROLLER DUTIES; SPECIFYING RESPONSIBILITIES BY ROLE; AMENDING SECTIONS 20-7-1324, 30-14-2802, 30-14-2803, 30-14-2804, 30-14-2808, 30-14-2812, 30-14-2816, AND 30-14-2817, MCA; AND REPEALING SECTION 15, CHAPTER 681, LAWS OF 2023.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-7-1324, MCA, is amended to read:

“20-7-1324. Definitions. As used in 20-7-1323 through 20-7-1326, the following definitions apply:

(1) “Deidentified information” means information that cannot be used to identify an individual pupil.

(2) “K-12 online application” means an internet website, online service, cloud computing service, online application, or mobile application that is used primarily for K-12 school purposes and that was designed and is marketed for K-12 school purposes.

(3) (a) “K-12 school purposes” means activities that customarily take place at the direction of a school, teacher, or school district or aid in the administration of school activities, including but not limited to instruction in the classroom or at home, administrative activities, and collaboration between pupils, school personnel, or parents, or that are for the use and benefit of a school.

(b) *The term does not include courses that are provided for the purpose of postsecondary credit or work-based learning courses provided by a work-based learning partner pursuant to 20-7-1510.*

(4) “Operator” means the operator of a K-12 online application who knows or reasonably should know that the application is used primarily for K-12 school purposes.

(5) (a) “Protected information” means personally identifiable information or materials, in any media or format, that describes or otherwise identifies a pupil and that is:

(i) created or provided by a pupil, or the pupil’s parent or legal guardian, to an operator in the course of the pupil’s, parent’s, or legal guardian’s use of the operator’s K-12 online application;

(ii) created or provided by an employee or agent of a school district to an operator in the course of the employee’s or agent’s use of the operator’s K-12 online application; or

(iii) gathered by an operator through the operator’s K-12 online application.

(b) The term includes but is not limited to:

(i) information in the pupil’s educational record or e-mail messages;

(ii) first and last name, home address, telephone number, e-mail address, or other information that allows physical or online contact;

(iii) discipline records, test results, special education data, juvenile dependency records, grades, or evaluations;

(iv) criminal, medical, or health records;

(v) social security number;

(vi) biometric information;

(vii) disability;

(viii) socioeconomic information;

(ix) food purchases;

(x) political affiliation;

(xi) religious information; or

(xii) text messages, documents, pupil identifiers, search activity, photos, voice recordings, or geolocation information.

(6) (a) “Pupil records” means:

(i) any information directly related to a pupil that is maintained by a school district; or

(ii) any information acquired directly from a pupil through the use of instructional software or applications assigned to the pupil by a teacher or other school district employee.

(b) The term does not include deidentified information, including aggregated deidentified information used:

(i) by a third party to improve educational products for adaptive learning purposes and for customizing pupil learning;

(ii) to demonstrate the effectiveness of a third party's products in the marketing of those products; or

(iii) for the development and improvement of educational sites, services, or applications.

(7) (a) "Pupil-generated content" means materials created by a pupil, including but not limited to essays, research reports, portfolios, creative writing, music or other audio files, photographs, and account information that enables ongoing ownership of pupil content.

(b) The term does not include pupil responses to a standardized assessment for which pupil possession and control would jeopardize the validity and reliability of that assessment.

(8) "Third party" refers to a provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of pupil records."

Section 2. Section 30-14-2802, MCA, is amended to read:

"30-14-2802. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) "*Adult*" means an individual who is 18 years of age or older.

(4)(2) "Affiliate" means a legal entity that shares common branding with another legal entity or controls, is controlled by, or is under common control with another legal entity.

(2)(3) "Authenticate" means to use reasonable methods to determine that a request to exercise any of the rights afforded under 30-14-2808(1)(a) through (1)(e) is being made by, or on behalf of, the consumer who is entitled to exercise these consumer rights with respect to the personal data at issue.

(3)(4)(a) "Biometric data" means data generated by automatic measurements of an individual's biological characteristics, such as a fingerprint, a voiceprint, eye retinas, irises, or other unique biological patterns or characteristics that are used to identify a specific individual.

(b) The term does not include:

(i) a digital or physical photograph;

(ii) an audio or video recording; or

(iii) any data generated from a digital or physical photograph or an audio or video recording, unless that data is generated to identify a specific individual.

(4)(5) "Child" means an individual under 13 years of age.

(5)(6) (a) "Consent" means a clear affirmative act signifying a consumer's freely given, specific, informed, and unambiguous agreement to allow the processing of personal data relating to the consumer. The term may include a written statement, a statement by electronic means, or any other unambiguous affirmative action.

(b) The term does not include:

(i) acceptance of a general or broad term of use or similar document that contains descriptions of personal data processing along with other unrelated information;

(ii) hovering over, muting, pausing, or closing a given piece of content; or

(iii) an agreement obtained using dark patterns.

(6)(7) (a) "Consumer" means an individual who is a resident of this state.

(b) The term does not include an individual acting in a commercial or employment context or as an employee, owner, director, officer, or contractor of a company, partnership, sole proprietorship, nonprofit, or government

agency whose communications or transactions with the controller occur solely within the context of that individual's role with the company, partnership, sole proprietorship, nonprofit, or government agency.

(7)(8) "Control" or "controlled" means:

(a) ownership of or the power to vote more than 50% of the outstanding shares of any class of voting security of a company;

(b) control in any manner over the election of a majority of the directors or of individuals exercising similar functions; or

(c) the power to exercise controlling influence over the management of a company.

(8)(9) "Controller" means an individual who or legal entity that, alone or jointly with others, determines the purpose and means of processing personal data.

(9)(10) "Dark pattern" means a user interface designed or manipulated with the effect of substantially subverting or impairing user autonomy, decision-making, or choice.

(10)(11) "Decisions that produce legal or similarly significant effects concerning the consumer" means decisions made by the controller that result in the provision or denial by the controller of financial or lending services, housing, insurance, education enrollment or opportunity, criminal justice, employment opportunities, health care services, or access to necessities such as food and water.

(11)(12) "De-identified data" means data that cannot be used to reasonably infer information about or otherwise be linked to an identified or identifiable individual or a device linked to the individual if the controller that possesses the data:

(a) takes reasonable measures to ensure that the data cannot be associated with an individual;

(b) publicly commits to process the data in a de-identified fashion only and to not attempt to re-identify the data; and

(c) contractually obligates any recipients of the data to satisfy the criteria set forth in subsections ~~(11)(a)~~ (12)(a) and ~~(11)(b)~~ (12)(b).

(13) "*Heightened risk of harm to minors*" means *processing the personal data of a minor in a manner that presents a reasonably foreseeable risk that could cause:*

(a) *unfair or deceptive treatment of or an unlawful disparate impact on a minor;*

(b) *financial, physical, or reputational injury to a minor;*

(c) *unauthorized disclosure of the personal data of a minor as a result of a security breach as described in 30-14-1704; or*

(d) *physical or other intrusion on the solitude or seclusion or the private affairs or concerns of a minor if the intrusion would be considered offensive to a reasonable person.*

(12)(14) "Identified or identifiable individual" means an individual who can be readily identified, directly or indirectly.

(13)(15) "Institution of higher education" means any individual who or school, board, association, limited liability company, or corporation that is licensed or accredited to offer one or more programs of higher learning leading to one or more degrees.

(16) "*Minor*" means *a consumer who is under 18 years of age.*

(14)(17) "Nonprofit organization" means any organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6) or 501(c)(12) of the Internal Revenue Code of 1986 or any subsequent corresponding internal revenue code of the United States as amended from time to time.

(18) (a) *“Online service, product, or feature” means a service, product, or feature that is provided online.*

(b) *The term does not include:*

(i) *a telecommunications service as defined in 47 U.S.C. 153(53), as amended;*

(ii) *broadband internet access service as defined in 47 CFR 54.400(l), as amended; or*

(iii) *the delivery or use of a physical product.*

(15)(19) (a) *“Personal data” means any information that is linked or reasonably linkable to an identified or identifiable individual.*

(b) *The term does not include de-identified data or publicly available information.*

(16)(20) (a) *“Precise geolocation data” means information derived from technology, including but not limited to global positioning system level latitude and longitude coordinates or other mechanisms, that directly identifies the specific location of an individual with precision and accuracy within a radius of 1,750 feet.*

(b) *The term does not include the content of communications or any data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility.*

(17)(21) *“Process” or “processing” means any operation or set of operations performed, whether by manual or automated means, on personal data or on sets of personal data, such as the collection, use, storage, disclosure, analysis, deletion, or modification of personal data.*

(18)(22) *“Processor” means an individual who or legal entity that processes personal data on behalf of a controller.*

(19)(23) *“Profiling” means any form of automated processing performed on personal data to evaluate, analyze, or predict personal aspects related to an identified or identifiable individual’s economic situation, health, personal preferences, interests, reliability, behavior, location, or movements.*

(20)(24) *“Protected health information” has the same meaning as provided in the privacy regulations of the federal Health Insurance Portability and Accountability Act of 1996.*

(21)(25) *“Pseudonymous data” means personal data that cannot be attributed to a specific individual without the use of additional information, provided the additional information is kept separately and is subject to appropriate technical and organizational measures to ensure that the personal data is not attributed to an identified or identifiable individual.*

(22)(26) *“Publicly available information” means information that:*

(a) *is lawfully made available through federal, state, or municipal government records or widely distributed media; or*

(b) *a controller has a reasonable basis to believe a consumer has lawfully made available to the public.*

(23)(27) (a) *“Sale of personal data” means the exchange of personal data for monetary or other valuable consideration by the controller to a third party.*

(b) *The term does not include:*

(i) *the disclosure of personal data to a processor that processes the personal data on behalf of the controller;*

(ii) *the disclosure of personal data to a third party for the purposes of providing a product or service requested by the consumer;*

(iii) *the disclosure or transfer of personal data to an affiliate of the controller;*

(iv) *the disclosure of personal data in which the consumer directs the controller to disclose the personal data or intentionally uses the controller to interact with a third party;*

(v) *the disclosure of personal data that the consumer:*

(A) intentionally made available to the public via a channel of mass media; and

(B) did not restrict to a specific audience; or

(vi) the disclosure or transfer of personal data to a third party as an asset that is part of a merger, acquisition, bankruptcy, or other transaction, or a proposed merger, acquisition, bankruptcy, or other transaction in which the third party assumes control of all or part of the controller's assets.

(24)(28) "Sensitive data" means personal data that includes:

(a) data revealing racial or ethnic origin, religious beliefs, a mental or physical health condition or diagnosis, information about a person's sex life, sexual orientation, or citizenship or immigration status;

(b) the processing of genetic or biometric data for the purpose of uniquely identifying an individual;

(c) personal data collected from a known child; or

(d) precise geolocation data.

(25)(29) (a) "Targeted advertising" means displaying advertisements to a consumer in which the advertisement is selected based on personal data obtained or inferred from that consumer's activities over time and across nonaffiliated internet websites or online applications to predict the consumer's preferences or interests.

(b) The term does not include:

(i) advertisements based on activities within a controller's own internet websites or online applications;

(ii) advertisements based on the context of a consumer's current search query or visit to an internet website or online application;

(iii) advertisements directed to a consumer in response to the consumer's request for information or feedback; or

(iv) processing personal data solely to measure or report advertising frequency, performance, or reach.

(26)(30) "Third party" means an individual or legal entity, such as a public authority, agency, or body, other than the consumer, controller, or processor or an affiliate of the controller or processor.

(27)(31) "Trade secret" has the same meaning as provided in 30-14-402."

Section 3. Section 30-14-2803, MCA, is amended to read:

"30-14-2803. Applicability. (1) The provisions of this part, *excluding [sections 9 through 11]*, apply to persons that conduct business in this state or persons that produce products or services that are targeted to residents of this state and:

(1)(a) control or process the personal data of not less than ~~50,000~~ 25,000 consumers, excluding personal data controlled or processed solely for the purpose of completing a payment transaction; or

(2)(b) control or process the personal data of not less than ~~25,000~~ 15,000 consumers and derive more than 25% of gross revenue from the sale of personal data.

(2) *[Sections 9 through 11] apply to persons that conduct business in this state or deliver commercial products or services that are intentionally targeted to residents of this state."*

Section 4. Section 30-14-2804, MCA, is amended to read:

"30-14-2804. Exemptions. (1) This part does not apply to any:

(a) body, authority, board, bureau, commission, district, or agency of this state or any political subdivision of this state;

(b) nonprofit organization *that is established to detect and prevent fraudulent acts in connection with insurance;*

(c) institution of higher education;

(d) national securities association that is registered under 15 U.S.C. 78o-3 of the federal Securities Exchange Act of 1934, as amended;

(e) *state or federally chartered bank or credit union or an affiliate or subsidiary that is principally engaged in financial activities as described in 12 U.S.C. 1843(k);*

~~(e)(f) financial institution or an affiliate of a financial institution governed by, or~~ personal data collected, processed, sold, or disclosed in accordance with, Title V of the Gramm-Leach-Bliley Act, 15 U.S.C. 6801, et seq.; ~~or~~

~~(f)(g)~~ covered entity or business associate as defined in the privacy regulations of the federal Health Insurance Portability and Accountability Act of 1996, 45 CFR 160.103; ~~or~~

(h) *insurer, as defined in 33-1-201, an insurance producer, as defined in 33-17-102, a third-party administrator of self-insurance, or an affiliate or subsidiary of an entity identified in this subsection (1)(h) that is principally engaged in financial activities, as described in 12 U.S.C. 1843(k), except that this subsection (1)(h) does not apply to a person who, alone or in combination with another person, establishes and maintains a self-insurance program that does not otherwise engage in the business of entering into policies of insurance.*

(2) Information and data exempt from this part include:

(a) protected health information under the privacy regulations of the federal Health Insurance Portability and Accountability Act of 1996;

(b) patient-identifying information for the purposes of 42 U.S.C. 290dd-2;

(c) identifiable private information for the purposes of the federal policy for the protection of human subjects of 1991, 45 CFR, part 46;

(d) identifiable private information that is otherwise information collected as part of human subjects research pursuant to the good clinical practice guidelines issued by the international council for harmonisation of technical requirements for pharmaceuticals for human use;

(e) the protection of human subjects under 21 CFR, parts 6, 50, and 56, or personal data used or shared in research as defined in the federal Health Insurance Portability and Accountability Act of 1996, 45 CFR 164.501, that is conducted in accordance with the standards set forth in this subsection (2)(e), or other research conducted in accordance with applicable law;

(f) information and documents created for the purposes of the Health Care Quality Improvement Act of 1986, 42 U.S.C. 11101, et seq.;

(g) patient safety work products for the purposes of the Patient Safety and Quality Improvement Act of 2005, 42 U.S.C. 299b-21, et seq., as amended;

(h) information derived from any of the health care-related information listed in this subsection (2) that is:

(i) de-identified in accordance with the requirements for de-identification pursuant to the privacy regulations of the federal Health Insurance Portability and Accountability Act of 1996; or

(ii) included in a limited data set as described in 45 CFR 164.514(e), to the extent that the information is used, disclosed, and maintained in a manner specified in 45 CFR 164.514(e).

(i) information originating from and intermingled to be indistinguishable with or information treated in the same manner as information exempt under this subsection (2) that is maintained by a covered entity or business associate as defined in the privacy regulations of the federal Health Insurance Portability and Accountability Act of 1996, 45 CFR 160.103, or a program or qualified service organization, as specified in 42 U.S.C. 290dd-2, as amended;

(j) information used for public health activities and purposes as authorized by the federal Health Insurance Portability and Accountability Act of 1996, community health activities, and population health activities;

(k) the collection, maintenance, disclosure, sale, communication, or use of any personal information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living by a consumer reporting agency, furnisher, or user that provides information for use in a consumer report and by a user of a consumer report, but only to the extent that the activity is regulated by and authorized under the Fair Credit Reporting Act, 15 U.S.C. 1681, as amended;

(l) personal data collected, processed, sold, or disclosed in compliance with the Driver's Privacy Protection Act of 1994, 18 U.S.C. 2721, et seq., as amended;

(m) personal data regulated by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, et seq., as amended;

(n) personal data collected, processed, sold, or disclosed in compliance with the Farm Credit Act of 1993, 12 U.S.C. 2001, et seq., as amended;

(o) data processed or maintained:

(i) by an individual applying to, employed by, or acting as an agent or independent contractor of a controller, processor, or third party to the extent that the data is collected and used within the context of that role;

(ii) as the emergency contact information of an individual under this part and used for emergency contact purposes; or

(iii) that is necessary to retain to administer benefits for another individual relating to the individual who is the subject of the information under subsection (2)(a) and is used for the purposes of administering the benefits; and

(p) personal data collected, processed, sold, or disclosed in relation to price, route, or service, as these terms are used in the Airline Deregulation Act of 1978, 49 U.S.C. 40101, et seq., as amended, by an air carrier subject to the Airline Deregulation Act of 1978, to the extent this part is preempted by the Airline Deregulation Act of 1978, 49 U.S.C. 41713, as amended.

(3) Controllers and processors that comply with the verifiable parental consent requirements of the Children's Online Privacy Protection Act of 1998, 15 U.S.C. 6501, et seq., shall be considered compliant with any obligation to obtain parental consent pursuant to this part."

Section 5. Section 30-14-2808, MCA, is amended to read:

"30-14-2808. Consumer personal data -- opt-out -- compliance -- appeals. (1) A consumer must have the right to:

(a) confirm whether a controller is processing the consumer's personal data and access the consumer's personal data, unless such confirmation or access would require the controller to reveal a trade secret;

(b) correct inaccuracies in the consumer's personal data, considering the nature of the personal data and the purposes of the processing of the consumer's personal data;

(c) delete personal data about the consumer;

(d) obtain a copy of the consumer's personal data previously provided by the consumer to the controller in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the personal data to another controller without hindrance when the processing is carried out by automated means, provided the controller is not required to reveal any trade secret; and

(e) opt out of the processing of the consumer's personal data for the purposes of:

(i) targeted advertising;

(ii) the sale of the consumer's personal data, except as provided in 30-14-2812(2); or

(iii) profiling in furtherance of ~~solely~~ automated decisions that produce legal or similarly significant effects concerning the consumer.

(2) A consumer may exercise rights under this section by a secure and reliable means established by the controller and described to the consumer in the controller's privacy notice.

(3) (a) A consumer may designate an authorized agent in accordance with 30-14-2809 to exercise the rights of the consumer to opt out of the processing of the consumer's personal data under subsection (1)(e) on behalf of the consumer.

(b) A parent or legal guardian of a known child may exercise the consumer rights on the known child's behalf regarding the processing of personal data.

(c) A guardian or conservator of a consumer subject to a guardianship, conservatorship, or other protective arrangement, may exercise the rights on the consumer's behalf regarding the processing of personal data.

(4) Except as otherwise provided in this part, a controller shall comply with a request by a consumer to exercise the consumer rights authorized pursuant to this section as follows:

(a) A controller shall respond to the consumer without undue delay, but not later than 45 days after receipt of the request. The controller may extend the response period by 45 additional days when reasonably necessary, considering the complexity and number of the consumer's requests, provided the controller informs the consumer of the extension within the initial 45-day response period and the reason for the extension.

(b) If a controller declines to act regarding the consumer's request, the controller shall inform the consumer without undue delay, but not later than 45 days after receipt of the request, of the justification for declining to act and provide instructions for how to appeal the decision.

(c) Information provided in response to a consumer request must be provided by a controller, free of charge, once for each consumer during any 12-month period. If requests from a consumer are manifestly unfounded, excessive, technically infeasible, or repetitive, the controller may charge the consumer a reasonable fee to cover the administrative costs of complying with the request or decline to act on the request. The controller bears the burden of demonstrating the manifestly unfounded, excessive, technically infeasible, or repetitive nature of the request.

(d) If a controller is unable to authenticate a request to exercise any of the rights afforded under subsections (1)(a) through (1)(d) of this section using commercially reasonable efforts, the controller may not be required to comply with a request to initiate an action pursuant to this section and shall provide notice to the consumer that the controller is unable to authenticate the request to exercise the right or rights until the consumer provides additional information reasonably necessary to authenticate the consumer and the consumer's request to exercise the consumer's rights. A controller may not be required to authenticate an opt-out request, but a controller may deny an opt-out request if the controller has a good faith, reasonable, and documented belief that the request is fraudulent. If a controller denies an opt-out request because the controller believes the request is fraudulent, the controller shall send notice to the person who made the request disclosing that the controller believes the request is fraudulent and that the controller may not comply with the request.

(e) A controller that has obtained personal data about a consumer from a source other than the consumer must be deemed in compliance with the consumer's request to delete the consumer's data pursuant to subsection (1)(c) by:

(i) retaining a record of the deletion request and the minimum data necessary for the purpose of ensuring the consumer's personal data remains deleted from the controller's records and not using the retained data for any other purpose pursuant to the provisions of this part; or

(ii) opting the consumer out of the processing of the consumer's personal data for any purpose except for those exempted pursuant to the provisions of this part.

(5) A controller shall establish a process for a consumer to appeal the controller's refusal to act on a request within a reasonable period after the consumer's receipt of the decision. The appeal process must be conspicuously available and like the process for submitting requests to initiate action pursuant to this section. Not later than 60 days after receipt of an appeal, a controller shall inform the consumer in writing of any action taken or not taken in response to the appeal, including a written explanation of the reasons for the decisions. If the appeal is denied, the controller shall also provide the consumer with an online mechanism, if available, or other method through which the consumer may contact the attorney general to submit a complaint."

(6) In response to a consumer request under subsection (1)(a), a controller may not disclose the following information about a consumer but shall inform the consumer instead with sufficient particularity that the controller has collected this information:

(a) social security number;

(b) driver's license number or other government-issued identification number;

(c) financial account number;

(d) health insurance account number or medical identification number;

(e) account password, security questions, or answer; or

(f) biometric data.

Section 6. Section 30-14-2812, MCA, is amended to read:

"30-14-2812. Data processing by controller – limitations. (1) A controller shall:

(a) limit the collection of personal data to what is adequate, relevant, and reasonably necessary in relation to the purposes for which the personal data is processed, as disclosed to the consumer;

(b) establish, implement, and maintain reasonable administrative, technical, and physical data security practices to protect the confidentiality, integrity, and accessibility of personal data appropriate to the volume and nature of the personal data at issue; and

(c) provide an effective mechanism for a consumer to revoke the consumer's consent under this section that is at least as easy as the mechanism by which the consumer provided the consumer's consent and, on revocation of the consent, cease to process the personal data as soon as practicable, but not later than 45 days after the receipt of the request.

(2) A controller may not:

(a) except as otherwise provided in this part, process personal data for purposes that are not reasonably necessary to or compatible with the disclosed purposes for which the personal data is processed as disclosed to the consumer unless the controller obtains the consumer's consent;

(b) process sensitive data concerning a consumer without obtaining the consumer's consent or, in the case of the processing of sensitive data concerning a known child, without processing the sensitive data in accordance with the Children's Online Privacy Protection Act of 1998, 15 U.S.C. 6501, et seq.;

(c) process personal data in violation of the laws of this state and federal laws that prohibit unlawful discrimination against consumers;

(d) process the personal data of a consumer for the purposes of targeted advertising or sell the consumer's personal data without the consumer's consent under circumstances in which a controller has actual knowledge or

willfully disregards that the consumer is at least 13 years of age but younger than 16 years of age; or

(e) discriminate against a consumer for exercising any of the consumer rights contained in this part, including denying goods or services, charging different prices or rates for goods or services, or providing a different level of quality of goods or services to the consumer.

(3) Nothing in subsection (1) or (2) may be construed to require a controller to provide a product or service that requires the personal data of a consumer that the controller does not collect or maintain or prohibit a controller from offering a different price, rate, level, quality, or selection of goods or services to a consumer, including offering goods or services for no fee, if the consumer has exercised their right to opt out pursuant to this part or the offering is in connection with a consumer's voluntary participation in a bona fide loyalty, rewards, premium features, discounts, or club card program.

(4) If a controller sells personal data to third parties or processes personal data for targeted advertising, the controller shall clearly and conspicuously disclose the processing, ~~as well as the way a consumer may exercise the right to opt out of the processing in its privacy notice and provide access to a clear and conspicuous method outside the privacy notice for a consumer to opt out of the sale or processing. This method may include but is not limited to an internet hyperlink clearly labeled "your opt-out rights" or "your privacy rights" that directly effectuates the opt-out request or takes consumers to a web page where the consumer can make the opt-out request.~~

(5) A controller shall provide consumers with a reasonably accessible, clear, and meaningful privacy notice that includes:

- (a) the categories of personal data processed by the controller;
- (b) the purpose for processing personal data;
- (c) the categories of personal data that the controller *sells to or* shares with third parties, if any;
- (d) the categories of third parties, if any, with which the controller *sells or* shares personal data; and
- (e) an active e-mail address or other mechanism that the consumer may use to contact the controller; ~~and~~
- (f) *an explanation of the rights provided by 30-14-2808(1) and how consumers may exercise their consumer rights, including how a consumer may appeal a controller's decision regarding the consumer's request; and*
- (g) *the date the privacy notice was last updated.*

(6) *The privacy notice must be made available to the public in each language in which the controller provides a product or service that is subject to the privacy notice or carries out activities related to the product or service.*

(7) *The controller shall provide the privacy notice in a manner that is reasonably accessible to and usable by individuals with disabilities.*

(8) *Whenever a controller makes a material change to the controller's privacy notice or practices, the controller shall notify consumers affected by the material change with respect to any prospectively collected personal data and provide a reasonable opportunity for consumers to withdraw consent to any further materially different collection, processing, or transfer of previously collected personal data under the changed policy. The controller shall take all reasonable electronic measures to provide notification regarding material changes to affected consumers, taking into account available technology and the nature of the relationship.*

(9) *A controller is not required to provide a separate Montana-specific privacy notice or section of a privacy notice if the controller's general privacy notice contains all the information required by this section.*

(10) The privacy notice must be posted online through a conspicuous hyperlink using the word “privacy” on the controller’s website homepage or on a mobile device’s application store page or download page. A controller that maintains an application on a mobile device or other device shall also include a hyperlink to the privacy notice in the application’s settings menu or in a similarly conspicuous and accessible location. A controller that does not operate a website shall make the privacy notice conspicuously available to consumers through a medium regularly used by the controller to interact with consumers, including but not limited to mail.

~~(6)~~(11) (a) A controller shall establish and describe in a privacy notice one or more secure and reliable means for consumers to submit a request to exercise their consumer rights pursuant to this part considering the ways in which consumers normally interact with the controller, the need for secure and reliable communication of consumer requests, and the ability of the controller to verify the identity of the consumer making the request.

(b) A controller may not require a consumer to create a new account to exercise consumer rights but may require a consumer to use an existing account.”

Section 7. Section 30-14-2816, MCA, is amended to read:

“30-14-2816. Compliance by controller or processor. (1) Nothing in this part may be construed to restrict a controller’s or processor’s ability to:

(a) comply with federal, state, or municipal ordinances or regulations;

(b) comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, municipal, or other government authorities;

(c) cooperate with law enforcement agencies concerning conduct or activity that the controller or processor reasonably and in good faith believes may violate federal, state, or municipal ordinances or regulations;

(d) investigate, establish, exercise, prepare for, or defend legal claims;

(e) provide a product or service specifically requested by a consumer;

(f) perform under a contract to which a consumer is a party, including fulfilling the terms of a written warranty;

(g) take steps at the request of a consumer prior to entering a contract;

(h) take immediate steps to protect an interest that is essential for the life or physical safety of the consumer or another individual and when the processing cannot be manifestly based on another legal basis;

(i) prevent, detect, protect against, or respond to security incidents, identity theft, fraud, harassment, malicious or deceptive activities, or any illegal activity, preserve the integrity or security of systems, or investigate, report, or prosecute those responsible for any of these actions;

(j) engage in public or peer-reviewed scientific or statistical research in the public interest that adheres to all other applicable ethics and privacy laws and is approved, monitored, and governed by an institutional review board that determines or similar independent oversight entities that determine:

~~(A)~~(i) whether the deletion of the information is likely to provide substantial benefits that do not exclusively accrue to the controller;

~~(B)~~(ii) the expected benefits of the research outweigh the privacy risks; and

~~(C)~~(iii) whether the controller has implemented reasonable safeguards to mitigate privacy risks associated with research, including any risks associated with re-identification;

(k) assist another controller, processor, or third party with any of the obligations under this part; or

(l) process personal data for reasons of public interest in public health, community health, or population health, but solely to the extent that the processing is:

(A)(i) subject to suitable and specific measures to safeguard the rights of the consumer whose personal data is being processed; and

(B)(ii) under the responsibility of a professional subject to confidentiality obligations under federal, state, or local law.

(2) The obligations imposed on controllers or processors under this part may not restrict a controller's or processor's ability to collect, use, or retain personal data for internal use to:

(a) conduct internal research to develop, improve, or repair products, services, or technology;

(b) effectuate a product recall;

(c) identify and repair technical errors that impair existing or intended functionality; or

(d) perform internal operations that are reasonably aligned with the expectations of the consumer or reasonably anticipated based on the consumer's existing relationship with the controller or are otherwise compatible with processing data in furtherance of the provision of a product or service specifically requested by a consumer or the performance of a contract to which the consumer is a party.

(3) The obligations imposed on controllers or processors under this part may not apply when compliance by the controller or processor with this part would violate an evidentiary privilege under the laws of this state. Nothing in this part may be construed to prevent a controller or processor from providing personal data concerning a consumer to a person covered by an evidentiary privilege under the laws of this state as part of a privileged communication.

(4) A controller or processor that discloses personal data to a processor or third-party controller in accordance with this part may not be considered to have violated this part if the processor or third-party controller that receives and processes the personal data violates this part provided, at the time the disclosing controller or processor disclosed the personal data, the disclosing controller or processor did not have actual knowledge that the receiving processor or third-party controller would violate this part. A receiving processor or third-party controller receiving personal data from a disclosing controller or processor in compliance with this part is likewise not in violation of this part for the transgressions of the disclosing controller or processor from which the receiving processor or third-party controller receives the personal data.

(5) Nothing in this part may be construed to:

(a) impose any obligation on a controller or processor that adversely affects the rights or freedoms of any person, including but not limited to the rights of any person:

(i) to freedom of speech or freedom of the press guaranteed in the first amendment to the United States constitution; or

(ii) under Rule 504 of the Montana Rules of Evidence; or

(b) apply to a person's processing of personal data during the person's personal or household activities; or

(c) require a controller or processor to implement an age verification or age-gating system or otherwise affirmatively collect the age of consumers, but a controller that chooses to conduct commercially reasonable age estimation to determine which consumers are minors is not liable for an erroneous age estimation.

(6) Personal data processed by a controller pursuant to this section may be processed to the extent that the processing is:

(a) reasonably necessary and proportionate to the purposes listed in this section; and

(b) adequate, relevant, and limited to what is necessary in relation to the specific purposes listed in this section. The controller or processor must, when applicable, consider the nature and purpose of the collection, use, or retention of the personal data collected, used, or retained pursuant to subsection (2). The personal data must be subject to reasonable administrative, technical, and physical measures to protect the confidentiality, integrity, and accessibility of the personal data and to reduce reasonably foreseeable risks of harm to consumers relating to the collection, use, or retention of personal data.

(7) If a controller processes personal data pursuant to an exemption in this section, the controller bears the burden of demonstrating that the processing qualifies for the exemption and complies with the requirements in subsection (6).

(8) Processing personal data for the purposes expressly identified in this section may not solely make a legal entity a controller with respect to the processing.”

Section 8. Section 30-14-2817, MCA, is amended to read:

“30-14-2817. Enforcement. (1) The attorney general has exclusive authority and may use the duties and powers provided by Title 30, chapter 14, parts 1 and 2, to enforce violations pursuant to this part.

(2) *The attorney general shall post on the attorney general’s website:*

(a) *information relating to:*

(i) *the responsibilities of a controller pursuant to this part;*

(ii) *the responsibilities of a processor pursuant to this part; and*

(iii) *a consumer’s rights pursuant to this part; and*

(b) *an online mechanism through which a consumer may submit a complaint regarding consumer data privacy to the attorney general.*

(3) (a) *If the attorney general has reasonable cause to believe that a person has engaged in or is engaging in a violation of this part, the attorney general may issue a civil investigative demand pursuant to 30-14-113.*

(b) *As part of a civil investigative demand, the attorney general may request that a controller disclose any data protection assessment that is relevant to an investigation conducted by the attorney general. The attorney general may evaluate the data protection assessment for compliance with the requirements pursuant to this part.*

(2)(a) *The attorney general shall, prior to initiating any action for a violation of any provision of this part, issue a notice of violation to the controller.*

(b) *If the controller fails to correct the violation within 60 days of receipt of the notice of violation, the attorney general may bring an action pursuant to this section.*

(c) ~~If within the 60- day period the controller corrects the noticed violation and provides the attorney general an express written statement that the alleged violations have been corrected and that no such further violations will occur, no action must be initiated against the controller.~~

(4) *Actions brought by the department to enforce this part are subject to the statute of limitations pursuant to 27-2-231.*

~~(3)(5) Nothing in this part may be construed as providing the basis for or be subject to a private right of action for violations of this part or any other law. (Subsection (2) terminates April 1, 2026--sec. 15, Ch. 681, L. 2023-)~~

Section 9. Duties of controllers – duty of care – rebuttable presumption. (1) (a) A controller that offers an online service, product,

or feature to a consumer whom the controller actually knows or willfully disregards is a minor shall use reasonable care to avoid a heightened risk of harm to minors caused by the online service, product, or feature.

(b) In an enforcement action brought by the attorney general pursuant to 30-14-2817, there is a rebuttable presumption that a controller used reasonable care as required under this section if the controller complied with this section.

(2) Unless a controller has obtained consent in accordance with subsection (3), a controller that offers an online service, product, or feature to a consumer whom the controller actually knows or willfully disregards is a minor may not:

(a) process a minor's personal data:

(i) for the purposes of:

(A) targeted advertising;

(B) the sale of personal data; or

(C) profiling in furtherance of decisions that produce legal or similarly significant effects concerning a consumer;

(ii) for any processing purpose other than the processing purpose that the controller disclosed at the time the controller collected the minor's personal data or that is reasonably necessary for and compatible with the processing purpose that the controller disclosed at the time the controller collected the minor's personal data; or

(iii) for longer than is reasonably necessary to provide the online service, product, or feature;

(b) use a system design feature to significantly increase, sustain, or extend a minor's use of the online service, product, or feature; or

(c) collect a minor's precise geolocation data unless:

(i) the minor's precise geolocation data is reasonably necessary for the controller to provide the online service, product, or feature;

(ii) the controller only collects and retains the minor's precise geolocation data for the time necessary to provide the online service, product, or feature; and

(iii) the controller provides to the minor a signal indicating that the controller is collecting the minor's precise geolocation data and makes the signal available to the minor for the entire duration of the collection of the minor's precise geolocation data. This subsection (2)(c)(iii) does not apply to a service or application that is used by and under the direction of a ski area operator.

(3) (a) A controller may not engage in the activities described in subsection (2) unless the controller obtains:

(i) the minor's consent; or

(ii) if the minor is a child, the consent of the minor's parent or legal guardian.

A controller that complies with the verifiable parental consent requirements established in the Children's Online Privacy Protection Act of 1998, 15 U.S.C. 6501, et seq., as amended, and the regulations, rules, guidance, and exemptions adopted pursuant to this act, as amended, is considered to have satisfied any requirement to obtain parental consent under this subsection (3)(a)(ii).

(b) (i) A controller that offers an online service, product, or feature to a consumer whom the controller actually knows or willfully disregards is a minor may not:

(A) provide a consent mechanism that is designed to substantially subvert or impair or is manipulated with the effect of substantially subverting or impairing user autonomy, decision-making, or choice; or

(B) except as provided in subsection (3)(b)(ii), offer a direct messaging apparatus for use by a minor without providing readily accessible and

easy-to-use safeguards to limit the ability of an adult to send unsolicited communications to the minor with whom the adult is not connected.

(ii) Subsection (3)(b)(i)(B) does not apply to an online service, product, or feature of which the predominant or exclusive function is:

(A) electronic mail; or

(B) direct messaging consisting of text, photos, or videos that are sent between devices by electronic means in which messages are:

(I) shared between the sender and the recipient;

(II) only visible to the sender and the recipient; and

(III) not posted publicly.

(4) Subsections (2)(a) and (2)(b) do not apply to a service or application that is used by and under the direction of an educational entity, including a learning management system or a student engagement program.

Section 10. Responsibility according to role – processing data of minors. (1) A processor shall adhere to the instructions of a controller and shall assist the controller to meet the controller's obligations under [sections 9 and 11], taking into account the nature of the processing and the information available to the processor. The processor shall assist the controller by:

(a) taking appropriate technical and organizational measures, insofar as this is possible, for the fulfillment of the controller's obligations under [section 9]; and

(b) providing information to enable the controller to conduct and document data protection assessments pursuant to [section 11].

(2) A contract between a controller and a processor must satisfy the requirements of 30-14-2813(2).

(3) Nothing in this section may be construed to relieve a controller or processor from the liabilities imposed on the controller or processor by virtue of the controller's or processor's role in the processing relationship as described in [sections 9 and 11].

(4) Determining whether a person is acting as a controller or processor with respect to a specific processing of personal data is a fact-based determination that depends on the context in which personal data is to be processed. A person that is not limited in the person's processing of personal data pursuant to a controller's instructions or that fails to adhere to the instructions is a controller and not a processor with respect to a specific processing of personal data. A processor that continues to adhere to a controller's instructions with respect to a specific processing of personal data remains a processor. If a processor begins, alone or jointly with others, determining the purposes and means of the processing of personal data, the processor is a controller with respect to the processing and may be subject to an enforcement action under 30-14-2817.

Section 11. Data protection assessments for heightened risk of harm to minors. (1) A controller that, on or after October 1, 2025, offers an online service, product, or feature to a consumer whom the controller actually knows or willfully disregards is a minor shall conduct a data protection assessment for the online service, product, or feature if there is a heightened risk of harm to minors. The controller shall conduct the data protection assessment:

(a) in a manner that is consistent with the requirements established in 30-14-2814; and

(b) to address:

(i) the purpose of the online service, product, or feature;

(ii) the categories of a minor's personal data that the online service, product, or feature processes;

(iii) the purposes for which the controller processes a minor's personal data with respect to the online service, product, or feature; and

(iv) a heightened risk of harm to minors that is a reasonably foreseeable result of offering the online service, product, or feature to minors.

(2) A controller that conducts a data protection assessment pursuant to subsection (1) shall:

(a) review the data protection assessment as necessary to account for a material change to the processing operations of the online service, product, or feature that is the subject of the data protection assessment; and

(b) maintain documentation concerning the data protection assessment for the longer of:

(i) 3 years after the date on which the processing operations cease; or

(ii) the date the controller ceases offering the online service, product, or feature.

(3) A single data protection assessment may address a comparable set of processing operations that include similar activities.

(4) If a controller conducts a data protection assessment for the purpose of complying with another applicable law or regulation, the data protection assessment is considered to satisfy the requirements established in this section if the data protection assessment is reasonably similar in scope and effect to the data protection assessment that would otherwise be conducted pursuant to this section.

(5) If a controller conducts a data protection assessment pursuant to subsection (1) or a data protection assessment review pursuant to subsection (2)(a) and determines that the online service, product, or feature that is the subject of the assessment poses a heightened risk of harm to minors, the controller shall establish and implement a plan to mitigate or eliminate the heightened risk.

(6) (a) A data protection assessment conducted pursuant to this section:

(i) is confidential, except as provided in subsection (6)(b); and

(ii) is not a public record and is exempt from public inspection and copying under the Freedom of Information Act, 5 U.S.C. 552.

(b) (i) A controller shall make a data protection assessment conducted pursuant to this section available to the attorney general on request. The attorney general may evaluate the data protection assessment for compliance with this section and with other laws.

(ii) The disclosure of a data protection assessment pursuant to a request from the attorney general does not constitute a waiver of any attorney-client privilege or work-product protection that might otherwise exist with respect to the assessment and any information in the assessment.

(7) Data protection assessment requirements apply to processing activities created or generated after October 1, 2025, and are not retroactive.

Section 12. Civil penalty injunction. (1) A violation of this part is a violation of Title 30, chapter 14, parts 1 and 2.

(2) A person who violates the provisions of this part following the 30-day period described in 30-14-2817(3) is liable for a civil penalty in an amount not to exceed \$7,500 for each violation.

(3) The attorney general may bring an action in the name of this state to:

(a) recover a civil penalty under this section;

(b) restrain or enjoin the person from violating this part; or

(c) recover the civil penalty and seek injunctive relief.

(4) The attorney general may recover reasonable attorney fees and other reasonable expenses incurred in investigating and bring an action under this section.

(5) The attorney general shall deposit a civil penalty collected under this section in a special revenue account to the credit of the department pursuant to 30-14-143.

Section 13. Statute of limitations. Actions brought by the department to enforce this part are subject to the statute of limitations pursuant to 27-2-231.

Section 14. Statute of limitations. Actions brought by the department to enforce this part are subject to the statute of limitations pursuant to 27-2-231.

Section 15. Repealer. Section 15, Chapter 681, Laws of 2023, is repealed.

Section 16. Codification instruction. (1) [Sections 9 through 12] are intended to be codified as an integral part of Title 30, chapter 14, part 28, and the provisions of Title 30, chapter 14, part 28, apply to [sections 9 through 12].

(2) [Section 13] is intended to be codified as an integral part of Title 30, chapter 14, part 1, and the provisions of Title 30, chapter 14, part 1, apply to [section 13].

(3) [Section 14] is intended to be codified as an integral part of Title 30, chapter 14, part 2, and the provisions of Title 30, chapter 14, part 2, apply to [section 14].

Approved May 8, 2025

CHAPTER NO. 568

[SB 300]

AN ACT PROVIDING PROTECTIONS FOR SERVICE ANIMALS AND HANDLERS; PROVIDING THE OFFENSE OF HARASSMENT OR HARM OF A SERVICE ANIMAL; PROVIDING THE OFFENSE OF UNAUTHORIZED CONTROL OF A SERVICE ANIMAL; PROVIDING RESTITUTION; PROVIDING FOR PENALTIES WHEN A SERVICE ANIMAL IS ATTACKED; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 7-23-2109, 27-1-715, AND 49-4-214, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 4], unless the context clearly indicates otherwise, the following definitions apply:

(1) “Notice” means a verbal or otherwise communicated warning regarding the behavior of another person and a request that the person stop the behavior.

(2) “Service animal” has the same meaning as provided in 49-4-203.

(3) “Value” means the valuation of a service animal, including but not limited to the initial cost to purchase the animal and other expenses incurred, such as the cost of training, licensing, and hardware necessary for the use of the service animal.

Section 2. Harassment or harm of service animal. (1) A person commits the offense of harassment or harm of a service animal if the person:

(a) continues behavior that interferes with the use of a service animal by obstructing, intimidating, or otherwise jeopardizing the safety of the service animal or the service animal’s handler after the person has received notice on the behavior;

(b) negligently causes the harm, disability, or death of a service animal; or

(c) is the owner of a dog or other animal and negligently allows the dog or other animal to interfere with the use of a service animal by obstructing,

intimidating, or otherwise jeopardizing the safety of or causing harm to a service animal or the service animal's handler.

(2) A person convicted of the offense of harassment or harm of a service animal is guilty of a misdemeanor and shall be fined no more than \$1,000.

Section 3. Unauthorized control of service animal. (1) A person commits the offense of unauthorized control of a service animal if the person purposely or knowingly obtains or exerts unauthorized control over a service animal with the intent to deprive the service animal's handler of the service animal.

(2) A person convicted of the offense of unauthorized control of a service animal is guilty of misdemeanor theft and shall be punished as provided in 45-6-301.

Section 4. Restitution for harassment, harm, or unauthorized control of service animal. (1) A person convicted of a violation of [section 2 or 3] must be ordered to make full restitution of all damages, including incidental and consequential expenses incurred by the service animal handler, arising from or related to the violation.

(2) Restitution for applicable expenses may include but is not limited to:

(a) the value of an incapacitated or deceased service animal and the training of a replacement service animal;

(b) the retraining of an affected service animal;

(c) related veterinary and care expenses; and

(d) medical expenses of the service animal handler, training of the service animal handler, and compensation for wages or earned income lost by the service animal handler.

(3) Nothing in this section affects any civil remedies available for a violation of [sections 2 and 3] and this section.

Section 5. Section 7-23-2109, MCA, is amended to read:

"7-23-2109. Vicious dog control. (1) The county governing body may regulate, restrain, control, kill, or quarantine any vicious dog, whether ~~such~~ *the* dog is licensed or unlicensed, by the adoption of an ordinance ~~which that~~ substantially complies with the provisions of 7-5-103 through 7-5-107.

(2) A violation of any ordinance established as provided in subsection (1) is a misdemeanor.

(3) For *the* purposes of this section, a "vicious dog" is defined as one ~~which that~~ bites or attempts to bite any human being without provocation or ~~which that~~ harasses, chases, bites, or attempts to bite any other animal. The term "animal" includes all livestock, *service animals*, and any domestic pet."

Section 6. Section 27-1-715, MCA, is amended to read:

"27-1-715. Liability of owner of vicious dog. (1) The owner of a dog that without provocation bites a person *or service animal* while the person *or service animal* is on or in a public place or lawfully on or in a private place; ~~including the property of the owner of the dog;~~ located within an incorporated city or town is liable for damages that may be suffered by the person *or service animal* bitten, regardless of the former viciousness of the dog or the owner's knowledge of the viciousness.

(2) A person *or service animal* is lawfully ~~upon the~~ *in a* private ~~property of the owner place~~ within the meaning of this section when the person *or service animal* is on the property in the performance of any duty imposed ~~upon on~~ the person *or service animal* by the laws of this state or by the laws or postal regulations of the United States of America or when the person *or service animal* is on the property as an invitee or licensee of the person lawfully in possession of the property."

Section 7. Section 49-4-214, MCA, is amended to read:

“49-4-214. Right to be accompanied by service animal – identification for service animals in training. (1) A person with a disability has the right to be accompanied by a service animal or a service animal in training with identification complying with subsection (4) in any of the places mentioned in 49-4-211(2) without being charged extra for the service animal. The person with a disability is liable for any damage done to the property by the *service* animal.

(2) A person with a disability who has a service animal or who obtains a service animal is entitled to full and equal access to all housing accommodations as provided in 49-2-305 and 49-4-212. The person with a disability may not be required to pay extra compensation for the service animal but is liable for any damage done to the premises by the service animal.

(3) A person who is training a service animal is entitled to the same rights and assumes the same responsibilities granted to a person with a disability in this section.

(4) For the purposes of this section, a service animal in training shall wear a leash, collar, cape, harness, or backpack that identifies in writing that the animal is a service animal in training. The written identification for service animals in training must be visible and legible from a distance of at least 20 feet.

(5) If a person has a service animal that provides assistance and the person wishes to access the places and accommodations mentioned in 49-4-211 accompanied by the animal in its capacity as a service animal:

(a) the *service* animal must be under the handler's control as required under 28 CFR 35.136 that is in effect as of October 1, 2019; and

(b) the person may be asked by a representative of the place or accommodation:

(i) whether the animal is a service animal that is required because of a disability; and

(ii) to describe the work or task the *service* animal is trained to perform.

(6) (a) If the *service* animal described in subsection (5) is not under the handler's control and the handler has not taken effective action to control the *service* animal or the *service* animal is not housebroken, the handler may be asked to remove the *service* animal from the place or accommodation.

(b) A place or accommodation that asks that ~~an~~ a *service* animal be removed from the place or accommodation as provided in subsection (6)(a) shall give the *service* animal's handler the opportunity to participate in the service, program, or activity without having the service animal on the premises.

(7) If a place or accommodation mentioned in 49-4-211 posts a notice that dogs or other animals are prohibited on the premises, the place or accommodation must also indicate that a person may be accompanied by a service animal subject to the provisions of this chapter.”

Section 8. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 45, chapter 8, part 2, and the provisions of Title 45, chapter 8, part 2, apply to [sections 1 through 4].

Approved May 8, 2025

CHAPTER NO. 569

[SB 303]

AN ACT REQUIRING DESIGNATED STATE AGENCIES TO SUBMIT REPORTS TO THE OFFICE OF BUDGET AND PROGRAM PLANNING ON INFORMATION RELATED TO FINANCIAL ASSISTANCE PROVIDED TO TRIBAL ENTITIES; REQUIRING THE OFFICE OF BUDGET AND PROGRAM PLANNING TO COMPILE A REPORT ON FINANCIAL ASSISTANCE PROVIDED BY DESIGNATED STATE AGENCIES DIRECTLY OR INDIRECTLY TO TRIBAL ENTITIES AND SUBMIT THE REPORT IN AN ELECTRONIC FORMAT TO THE STATE-TRIBAL RELATIONS COMMITTEE, THE LEGISLATIVE FINANCE COMMITTEE, AND THE OFFICE OF STATE DIRECTOR OF INDIAN AFFAIRS; REQUIRING THE REPORT COMPILED BY THE OFFICE OF BUDGET AND PROGRAM PLANNING TO BE POSTED ON THE WEBSITE OF THE OFFICE OF STATE DIRECTOR OF INDIAN AFFAIRS; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING DEFINITIONS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 and 2], unless the context clearly indicates otherwise, the following definitions apply:

(1) (a) “Designated state agency” means:

- (i) the department of administration;
- (ii) the department of agriculture;
- (iii) the Montana arts council;
- (iv) the office of the state auditor;
- (v) the board of regents;
- (vi) the department of commerce;
- (vii) the department of corrections;
- (viii) the department of environmental quality;
- (ix) the department of fish, wildlife, and parks;
- (x) the governor’s office;
- (xi) the department of labor and industry;
- (xii) the department of livestock;
- (xiii) the department of military affairs;
- (xiv) the Montana board of crime control;
- (xv) the department of natural resources and conservation;
- (xvi) the commissioner of political practices;
- (xvii) the office of state public defender;
- (xviii) the board of public education;
- (xix) the department of public health and human services;
- (xx) the office of public instruction;
- (xxi) the public service commission;
- (xxii) the department of revenue;
- (xxiii) the school for the deaf and blind;
- (xxiv) the office of the secretary of state;
- (xxv) the state fund;
- (xxvi) the state library;
- (xxvii) the department of transportation;
- (xxviii) the office of the commissioner of higher education; or
- (xxix) the department of justice.

(b) The term does not include the judicial branch, the legislative branch, or an office or other entity within the judicial branch or the legislative branch.

(2) (a) "Financial assistance" means assistance provided directly or indirectly to a tribal entity either as state funds or as federal funds provided through a state agency to carry out a program. Financial assistance may be in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, direct appropriations, and electronic benefit transfer cards. The term includes awards received directly or indirectly by a tribal entity as state funds or as federal funds passed through a state agency directly or indirectly from a subrecipient. The granting agency is responsible for identifying the source of funds awarded to tribal entity recipients.

(b) The term does not include federal, state, or local government cash assistance provided directly to individuals.

(3) "Subrecipient" means a third party who receives state funds or federal funds through a state agency that the third party ultimately provides to a tribal entity in the form of financial assistance.

(4) "Tribal entity" means a tribal nation, tribal council, or tribal government located in the state.

Section 2. Funding for tribal entities – reporting. (1) Following the close of each fiscal year, a designated state agency that has distributed funds to a tribal entity or has received or retained funds related to a program that directly or indirectly provides financial assistance to a tribal entity shall prepare a report that identifies all financial assistance distributed by the designated state agency directly or indirectly to a tribal entity in the previous fiscal year.

(2) Unless otherwise specifically provided in the report issued by the director of the office of Indian affairs, the report under this section must provide the following information:

- (a) the amount distributed directly to a tribal entity;
- (b) the amount distributed to a subrecipient that was ultimately distributed to a tribal entity;
- (c) the date the amount was distributed to a tribal entity or subrecipient;
- (d) the tribal entity receiving the financial assistance;
- (e) the federal assistance listings number, if applicable;
- (f) the purpose of the distribution;
- (g) the amount of any overhead rate and a general description of the uses of overhead funding for distributing the financial assistance;
- (h) for funds distributed pursuant to a program administered by a designated state agency, the program through which the funds were distributed; and
- (i) for federal funds, any other amount retained by the state agency and for what purpose.

(3) A designated state agency that prepares a report in accordance with subsection (1) shall submit the report to the office of budget and program planning on or before November 1 of each year.

(4) The office of budget and program planning shall prepare an annual report that compiles and summarizes the reports that the office of budget and program planning receives in accordance with subsection (3).

(5) On or before December 1 of each year, the office of budget and program planning shall submit the report required by subsection (4) to:

- (a) the state-tribal relations committee, in accordance with 5-11-210;
- (b) the office of state director of Indian affairs provided for in 2-15-217;
- (c) each federally recognized tribal government in the state; and
- (d) the legislative finance committee established in 5-12-201.

(6) The report required by subsection (4) must be posted on the website of the office of state director of Indian affairs.

Section 3. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 4. Codification instruction. [Sections 1 and 2] are intended to be codified as a new part in Title 17, chapter 2, and the provisions of Title 17, chapter 2, apply to [sections 1 and 2].

Section 5. Effective date. [This act] is effective July 1, 2025.

Approved May 8, 2025

CHAPTER NO. 570

[SB 311]

AN ACT ENHANCING LEGISLATIVE UNDERSTANDING OF STATE-TRIBAL RELATIONS; REQUIRING THE STATE DIRECTOR OF INDIAN AFFAIRS TO WORK COLLABORATIVELY TO PROVIDE INFORMATION AND TRAINING OPPORTUNITIES TO LEGISLATORS; REVISING THE DEADLINE FOR PROVIDING A REPORT TO TRIBAL GOVERNMENTS; AMENDING SECTION 2-15-143, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. State-tribal relations training. (1) In collaboration with the legislative services division and the state-tribal relations committee, the state director of Indian affairs shall make readily available to all legislators information and training on:

- (a) Indian law;
- (b) the history of federal Indian policy; and
- (c) the legal rights of tribal members.

(2) The information and training under subsection (1) must include:

- (a) regularly updated tribal relations handbooks provided to legislators;
- (b) information and notifications regarding training offered by the governor's office pursuant to 2-15-143;
- (c) links to Indian education for all resources provided by the office of public instruction under Title 20, chapter 1, part 5, including any courses required to be taken by certified school personnel under standards adopted by the board of public education; and
- (d) any other resources determined to be valuable by the state director of Indian affairs and the legislative services division.

Section 2. Section 2-15-143, MCA, is amended to read:

“2-15-143. Training and consultation. (1) At least once a year, the governor's office and a trainer selected by the tribal governments shall provide training in Helena or a site mutually agreed upon on to state agency managers and key employees who have regular communication with tribes on the legal status of tribes, the legal rights of tribal members, and social, economic, and cultural issues of concern to tribes. *Pursuant to [section 1], the state director of Indian affairs shall collaborate with the legislative services division to ensure that legislators are aware of and invited to participate in this training.*

(2) At least annually, the governor shall convene in Helena a working meeting with representatives of state agencies and tribal officials, including tribal presiding officers, to discuss:

- (a) tribal concerns with rules and policies that directly impact tribal government and tribal populations;
- (b) other issues of concern to either the state or the tribes; and

(c) potential solutions to the concerns.

(3) By August 15 of each year, each state agency shall submit to the governor a report for the prior fiscal year describing the activities of the state agency relating to tribal government and tribal populations. The report must include:

(a) any rule or policy changes that the state agency adopted because of discussions under subsection (2)(a);

(b) the process that the state agency has established to identify the activities of the state agency that affect tribes;

(c) the efforts of the state agency to promote communication and the government-to-government relationship between the state agency and the tribes; and

(d) the efforts of the state agency to ensure tribal consultation and the use of American Indian data in the development and implementation of agency programs that directly affect tribes.

(4) By ~~September~~ *October* 15 of each year, the governor shall provide to each tribal government a report with an overview of all state and tribal activities for the prior fiscal year, including a description of the training required under subsection (1). It is the intent of the legislature that this report be prepared within existing levels of funding.”

Section 3. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 5, chapter 11, part 1, and the provisions of Title 5, chapter 11, part 1, apply to [section 1].

Section 5. Effective date. [This act] is effective July 1, 2025.

Approved May 8, 2025

CHAPTER NO. 571

[SB 317]

AN ACT PROHIBITING HEALTH INSURANCE ISSUERS FROM PERFORMING PRIOR AUTHORIZATION ON PSYCHIATRIC DRUGS THAT ARE IN SHORTAGE OR DISCONTINUED; AND AMENDING SECTION 33-32-221, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-32-221, MCA, is amended to read:

“33-32-221. Prior authorization requirements. (1) A health insurance issuer may not perform prior authorization on benefits for:

(a) any generic prescription drug that is not listed within any of the schedules of controlled substances found at 21 CFR 1308.11 through 21 CFR 1308.15 or the schedules of controlled substances found in Title 50, chapter 32, after a covered person has been prescribed the covered drug at the same quantity without interruption for 6 months;

(b) any prescription drug or drugs, generic or brand name, on the grounds of therapeutic duplication for the same drug if the covered person has already been subject to prior authorization on the grounds of therapeutic duplication for the same dosage of the prescription drug or drugs and coverage of the prescription drug or drugs was approved;

(c) any prescription drug, generic or brand name, solely because the dosage of the medication for the covered person has been adjusted by the prescriber of the prescription drug, as long as the dosage is within the dosage approved by

the food and drug administration or is consistent with clinical dosing for the medication; or

(d) any prescription drug, generic or brand name, that is a long-acting injectable antipsychotic; or

(e) any prescription drug, generic or brand name, that is designated as in shortage pursuant to subsection (3).

(2) Any adverse determination for a prescription drug made during prior authorization by a health insurance issuer must be made by a physician whose specialty focuses on the diagnosis and treatment of the condition for which the prescription drug was prescribed to treat, provided that prior authorization that does not result in an adverse determination does not require the involvement of a physician on the part of a health insurance issuer.

(3) (a) For the purposes of subsection (1)(e), the list of prescription drugs within the therapeutic category of psychiatry that are in shortage on April 1, July 1, October 1, or January 1 must be determined directly from the official shortage list published by the United States food and drug administration on those dates. The quarterly static list remains in effect until the next quarterly date.

(b) A manufacturer of a prescription drug subject to subsection (1)(e) may not engage in predatory pricing or marketing related to any shortage described in this section. A violation of this subsection (3)(b) is subject to enforcement and penalty under Title 30, chapter 14, part 1.”

Approved May 8, 2025

CHAPTER NO. 572

[SB 339]

AN ACT REVISING DISTRIBUTION OF CERTAIN OIL AND NATURAL GAS PRODUCTION TAXES; REVISING DEPOSITS TO THE OIL AND GAS PRODUCTION DAMAGE MITIGATION ACCOUNT; AMENDING SECTIONS 15-36-331 AND 82-11-161, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-36-331, MCA, is amended to read:

“**15-36-331. Distribution of taxes.** (1) (a) For each calendar quarter, the department shall determine the amount of tax, late payment interest, and penalties collected under this part.

(b) For the purposes of distribution of oil and natural gas production taxes to county and school district taxing units under 15-36-332 and to the state, the department shall determine the amount of oil and natural gas production taxes paid on production in the taxing unit.

(2) (a) The amount of oil and natural gas production taxes collected for the percentage of privilege and license tax established by the board pursuant to 82-11-131 must be deposited, in accordance with the provisions of 17-2-124, in the account in the state special revenue fund for the purpose of paying expenses of the board, as provided in 82-11-135.

(b) After the allocation provided for in subsection (2)(a), up to 0.08% of the tax collected pursuant to 15-36-304(7) must be deposited in the oil and gas natural resource distribution account established in 90-6-1001(1) for distribution pursuant to 15-36-332(7).

(c) (i) ~~Any~~ Except as provided in subsection (2)(c)(ii), any funds remaining after the allocations provided for in subsections (2)(a) and (2)(b) must be

deposited in the oil and gas production damage mitigation account as provided in 82-11-161.

(ii) If the unobligated cash balance in the oil and gas production damage mitigation account equals or exceeds \$10 million, then there is no deposit to the oil and gas production damage mitigation account, and the funds must remain in the board's expense account provided for in 82-11-135 as reserves for the board or for legislative transfer for purposes related to the impacts of oil and gas production.

(3) (a) For each tax year, the amount of oil and natural gas production taxes determined under subsection (1)(b) is allocated to each county according to the following schedule:

Big Horn	45.05%
Blaine	58.39%
Carbon	48.27%
Chouteau	58.14%
Custer	69.53%
Daniels	50.81%
Dawson	47.79%
Fallon	41.78%
Fergus	69.18%
Garfield	45.96%
Glacier	58.83%
Golden Valley	58.37%
Hill	64.51%
Liberty	57.94%
McCone	49.92%
Musselshell	48.64%
Petroleum	48.04%
Phillips	54.02%
Pondera	54.26%
Powder River	60.9%
Prairie	40.38%
Richland	47.47%
Roosevelt	45.71%
Rosebud	39.33%
Sheridan	47.99%
Stillwater	53.51%
Sweet Grass	61.24%
Teton	46.1%
Toole	57.61%
Valley	51.43%
Wibaux	49.16%
Yellowstone	46.74%
All other counties	50.15%

(b) The oil and natural gas production taxes allocated to each county must be deposited in the state special revenue fund and transferred to each county for distribution, as provided in 15-36-332.

(4) The department shall, in accordance with the provisions of 17-2-124, distribute the state portion of oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3) as follows:

(a) 2.16% to the natural resources projects state special revenue account established in 15-38-302;

(b) 2.02% to the natural resources operations state special revenue account established in 15-38-301;

(c) 2.95% to the orphan share account established in 75-10-743;

(d) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 15-10-109; and

(e) all remaining proceeds to the state general fund.

(5) A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:

(a) file a financial report required by 15-1-504;

(b) remit any amounts collected on behalf of the state as required by 15-1-504; or

(c) remit any other amounts owed to the state or another taxing jurisdiction.”

Section 2. Section 82-11-161, MCA, is amended to read:

“82-11-161. (Temporary) Oil and gas production damage mitigation account – statutory appropriation. (1) There is an oil and gas production damage mitigation account within the state special revenue fund established in 17-2-102. The oil and gas production damage mitigation account is controlled by the board.

(2) (a) At the beginning of each biennium, there must be allocated to the oil and gas production damage mitigation account \$650,000 from the interest income of the resource indemnity trust fund, except that if at the beginning of a biennium the unobligated cash balance in the oil and gas production damage mitigation account:

(i) equals or exceeds \$1 million, no allocation will be made; or

(ii) is less than \$1 million, then an amount less than or equal to the difference between the unobligated cash balance and \$1 million, but not more than \$650,000, must be allocated to the oil and gas production damage mitigation account from the interest income of the resource indemnity trust fund.

(b) If \$650,000 is not allocated pursuant to subsection (2)(a), the remainder must be deposited in the natural resources projects state special revenue account established in 15-38-302 for the purpose of making grants.

(3) In addition to the allocation provided in subsection (2), there must be deposited in the oil and gas production damage mitigation account all funds received by the board pursuant to 15-36-331(2)(c) and 82-11-136.

(4) If a sufficient balance exists in the account, funds are statutorily appropriated, as provided in 17-7-502, from the oil and gas production damage mitigation account, upon the authorization of the board, to pay the reasonable costs of properly plugging a well and either reclaiming or restoring, or both, a drill site or other drilling or producing area damaged by oil and gas operations if the board determines that the well, sump, hole, drill site, or drilling or producing area has been abandoned and the responsible person cannot be identified or located or if the responsible person fails or refuses to properly plug, reclaim, or restore the well, sump, hole, drill site, or drilling or producing area within a reasonable time after demand by the board. The responsible person shall, however, pay costs to the extent of that person's available resources and is subsequently liable to fully reimburse the account or is subject to a lien on property as provided in 82-11-164 for costs expended

from the account to properly plug, reclaim, or restore the well, sump, hole, drill site, or drilling or producing area and to mitigate any damage for which the person is responsible.

(5) Interest from funds in the oil and gas production damage mitigation account accrues to that account.

82-11-161. (Effective on occurrence of contingency) Oil and gas production damage mitigation account – statutory appropriation.

(1) There is an oil and gas production damage mitigation account within the state special revenue fund established in 17-2-102. The oil and gas production damage mitigation account is controlled by the board.

(2) (a) At the beginning of each biennium, there must be allocated to the oil and gas production damage mitigation account \$650,000 from the interest income of the resource indemnity trust fund, except that if at the beginning of a biennium the unobligated cash balance in the oil and gas production damage mitigation account:

(i) equals or exceeds \$1 million, no allocation will be made; or

(ii) is less than \$1 million, then an amount less than or equal to the difference between the unobligated cash balance and \$1 million, but not more than \$650,000, must be allocated to the oil and gas production damage mitigation account from the interest income of the resource indemnity trust fund.

(b) If \$650,000 is not allocated pursuant to subsection (2)(a), the remainder must be deposited in the natural resources projects state special revenue account established in 15-38-302 for the purpose of making grants.

(3) In addition to the allocation provided in subsection (2), there must be deposited in the oil and gas production damage mitigation account all funds received by the board pursuant to 15-36-331(2)(c) and 82-11-136(1).

(4) If a sufficient balance exists in the account, funds are statutorily appropriated, as provided in 17-7-502, from the oil and gas production damage mitigation account, upon the authorization of the board, to pay the reasonable costs of properly plugging a well and either reclaiming or restoring, or both, a drill site or other drilling or producing area damaged by oil and gas operations if the board determines that the well, sump, hole, drill site, or drilling or producing area has been abandoned and the responsible person cannot be identified or located or if the responsible person fails or refuses to properly plug, reclaim, or restore the well, sump, hole, drill site, or drilling or producing area within a reasonable time after demand by the board. However, the responsible person shall pay costs to the extent of that person's available resources and is subsequently liable to fully reimburse the account or is subject to a lien on property as provided in 82-11-164 for costs expended from the account to properly plug, reclaim, or restore the well, sump, hole, drill site, or drilling or producing area and to mitigate any damage for which the person is responsible.

(5) Interest from funds in the oil and gas production damage mitigation account accrues to that account."

Section 3. Effective date. [This act] is effective July 1, 2025.

Approved May 8, 2025

CHAPTER NO. 573

[SB 364]

AN ACT ESTABLISHING KILL SWITCH LAWS; PROHIBITING AN ENTITY FROM REMOTELY ACTIVATING A KILL SWITCH WITHOUT A WARRANT;

PROVIDING EXCEPTIONS; PROVIDING DAMAGES; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Kill switches on personally owned property – warrant required – exceptions – definitions. (1) An entity may not activate a kill switch on personally owned property without a court order or a warrant issued pursuant to Title 46, chapter 5, part 2.

(2) This section does not apply to:

(a) subscriptions, memberships, other recurring-payment programs, electronic devices used to enforce retail installment sale agreements, lease agreements, rental agreements, and other secured creditor agreements, or to motor vehicles subject to collections. In the event an individual neglects to make regular payments, the entity may activate a kill switch to turn off the individual's subscribed services. An entity shall disclose the existence of the kill switch and the capability of activating it prior to entering into an agreement or contract.

(b) a mechanism or feature that:

(i) addresses an imminent critical safety issue impacting a mechanical or software component of a motor vehicle;

(ii) activates when a driver of a motor vehicle is incapacitated, suffers a medical emergency, or experiences a loss of consciousness;

(iii) takes corrective action in a motor vehicle with an engaged partial driving automation feature if the driver is not attentive or engaged in the driving task and does not respond to warnings;

(iv) brings a motor vehicle with an engaged automated driving system to a minimal risk condition; or

(v) automatically shuts off the engine or motor of an idling motor vehicle that has been left on for an extended period of time while in the park position.

(3) As used in [sections 1 through 3], the following definitions apply:

(a) "Entity" means a company that manufactures or distributes personally owned property or that provides service for its functionality.

(b) "Hard reset" means the restoration of personally owned property to the state it was in when it left the factory. Other terms commonly used are "factory reset" and "master reset".

(c) "Individual" means a natural person.

(d) "Kill switch" means a mechanism that may be engaged remotely, regardless of the owner's consent, and is used to:

(i) shut down or perform a hard reset on personally owned property;

(ii) hasten the battery drainage of personally owned property; or

(iii) shorten the software lifespan of personally owned property.

Section 2. Enforcement – damages. (1) A violation of [section 1] is a violation of 30-14-103.

(2) The department of justice may bring an action to restrain any unlawful act pursuant to the provisions of Title 30, chapter 14, part 1.

(3) An individual whose personally owned property has a kill switch activated in violation of [section 1] may bring an action pursuant to 30-14-133, except that:

(a) the individual needs to show only a violation of [section 1] for that individual's personally owned property and is not required to show any other ascertainable loss of money or property; and

(b) the individual is entitled to statutory damages of \$10,000 for each violation of [section 1] in addition to any other damages or monetary award pursuant to 30-14-133.

Section 3. User consent. A kill switch may be activated on stolen personally owned property with consent of the property owner.

Section 4. Codification instruction. [Sections 1 through 3] are intended to be codified as a new part in Title 30, chapter 14, and the provisions of Title 30, chapter 14, apply to [sections 1 through 3].

Section 5. Effective date. [This act] is effective October 1, 2025.

Approved May 8, 2025

CHAPTER NO. 574

[SB 390]

AN ACT REVISING THE DEFINITION OF SMOKING IN THE CLEAN INDOOR AIR ACT; PROVIDING A DEFINITION OF ELECTRONIC SMOKING DEVICE; AMENDING SECTION 50-40-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-40-103, MCA, is amended to read:

“50-40-103. Definitions. As used in this part, the following definitions apply:

(1) “Bar” means an establishment with a license issued pursuant to Title 16, chapter 4, that is devoted to serving alcoholic beverages for consumption by guests or patrons on the premises and in which the serving of food is only incidental to the service of alcoholic beverages or gambling operations. The term includes but is not limited to taverns, night clubs, cocktail lounges, and casinos.

(2) “Department” means the department of public health and human services provided for in 2-15-2201.

(3) “*Electronic smoking device*” means an e-cigarette, dab rig, or vape pen containing or delivering nicotine or another substance intended for human consumption that can be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product.

(3)(4) “Enclosed public place” means an indoor area, room, or vehicle that the general public is allowed to enter or that serves as a place of work, including but not limited to the following:

(a) restaurants;

(b) stores;

(c) public and private office buildings and offices, including all office buildings and offices of political subdivisions, as provided for in 50-40-201, and state government;

(d) trains, buses, and other forms of public transportation;

(e) health care facilities;

(f) auditoriums, arenas, and assembly facilities;

(g) meeting rooms open to the public;

(h) bars;

(i) community college facilities;

(j) facilities of the Montana university system; and

(k) public schools, as provided for in 20-1-220 and 50-40-104.

(4)(5) “Establishment” means an enterprise under one roof that serves the public and for which a single person, agency, corporation, or legal entity is responsible.

(5)(6) “Incidental to the service of alcoholic beverages or gambling operations” means that at least 60% of the business’s annual gross income comes from the sale of alcoholic beverages or gambling receipts, or both.

(6)(7) “Person” means an individual, partnership, corporation, association, political subdivision, or other entity.

(7)(8) “Place of work” means an enclosed room where one or more individuals work.

(8)(9) “Smoking” or “to smoke” ~~includes~~ *means* the act of lighting, smoking, *inhaling, exhaling,* or carrying a lighted cigar, cigarette, pipe, or any smokable product, ~~and includes including~~ the use of marijuana *or an electronic smoking device.*”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2025

CHAPTER NO. 575

[SB 402]

AN ACT PROVIDING FOR CASE DETERMINATIONS OF INVESTIGATIONS OF REPORTED CHILD ABUSE OR NEGLECT; PROVIDING FOR DEFINITIONS OF SUBSTANTIATED, UNSUBSTANTIATED, AND UNFOUNDED; AND AMENDING SECTION 41-3-102, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 41-3-102, MCA, is amended to read:

“41-3-102. ~~(Temporary) Definitions. As used in this chapter, the following definitions apply:~~

(1) (a) “Abandon”, “abandoned”, and “abandonment” mean:

(i) leaving a child under circumstances that make reasonable the belief that the parent does not intend to resume care of the child in the future;

(ii) willfully surrendering physical custody for a period of 6 months and during that period not manifesting to the child and the person having physical custody of the child a firm intention to resume physical custody or to make permanent legal arrangements for the care of the child;

(iii) that the parent is unknown and has been unknown for a period of 90 days and that reasonable efforts to identify and locate the parent have failed; or

(iv) the voluntary surrender, as defined in 40-6-402, by a parent of a newborn who is no more than 30 days old to an emergency services provider, as defined in 40-6-402.

(b) The terms do not include the voluntary surrender of a child to the department solely because of parental inability to access publicly funded services:

(2) “A person responsible for a child’s welfare” means:

(a) the child’s parent, guardian, or foster parent or an adult who resides in the same home in which the child resides;

(b) a person providing care in a day-care facility;

(c) an employee of a public or private residential institution, facility, home, or agency; or

(d) any other person responsible for the child’s welfare in a residential setting;

(3) “Abused or neglected” means the state or condition of a child who has suffered child abuse or neglect.

(4) (a) “Adequate health care” means any medical care or nonmedical remedial health care recognized by an insurer licensed to provide disability insurance under Title 33, including the prevention of the withholding of medically indicated treatment or medically indicated psychological care permitted or authorized under state law.

(b) This chapter may not be construed to require or justify a finding of child abuse or neglect for the sole reason that a parent or legal guardian, because of religious beliefs, does not provide adequate health care for a child. However, this chapter may not be construed to limit the administrative or judicial authority of the state to ensure that medical care is provided to the child when there is imminent substantial risk of serious harm to the child.

(5) “Best interests of the child” means the physical, mental, and psychological conditions and needs of the child and any other factor considered by the court to be relevant to the child.

(6) “Child” or “youth” means any person under 18 years of age.

(7) (a) “Child abuse or neglect” means:

(i) actual physical or psychological harm to a child;

(ii) substantial risk of physical or psychological harm to a child; or

(iii) abandonment.

(b) (i) The term includes:

(A) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child’s welfare;

(B) exposing a child to the criminal distribution of dangerous drugs, as prohibited by 45-9-101, the criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110, or the operation of an unlawful clandestine laboratory, as prohibited by 45-9-132; or

(C) any form of child sex trafficking or human trafficking.

(ii) For the purposes of this subsection (7), “dangerous drugs” means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2.

(c) In proceedings under this chapter in which the federal Indian Child Welfare Act or the Montana Indian Child Welfare Act provided for in Title 41, chapter 3, part 13, are applicable, this term has the same meaning as “serious emotional or physical damage to the child” as used in 25 U.S.C. 1912(f).

(d) The term does not include:

(i) self-defense, defense of others, or action taken to prevent the child from self-harm that does not constitute physical or psychological harm to a child; or

(ii) a youth not receiving supervision solely because of parental inability to control the youth’s behavior.

(8) “Child protection specialist” means an employee of the department who investigates allegations of child abuse, neglect, and endangerment and has been certified pursuant to 41-3-127.

(9) “Concurrent planning” means to work toward reunification of the child with the family while at the same time developing and implementing an alternative permanent plan.

(10) “Decline to prosecute” means a decision not to file criminal charges based on the matter reported by the department or investigation by law enforcement for any reason, including but not limited to insufficient evidence.

(11) “Department” means the department of public health and human services provided for in 2-15-2201.

(12) “Family engagement meeting” means a meeting that involves family members in either developing treatment plans or making placement decisions, or both.

(13) "Indian child" has the meaning provided in 41-3-1303.

(14) "Indian child's tribe" has the meaning provided in 41-3-1303.

(15) "Indian custodian" has the meaning provided in 41-3-1303.

(16) "Indian tribe" has the meaning provided in 41-3-1303.

(17) "Limited emancipation" means a status conferred on a youth by a court in accordance with 41-1-503 under which the youth is entitled to exercise some but not all of the rights and responsibilities of a person who is 18 years of age or older.

(18) "Parent" means a biological or adoptive parent or stepparent.

(19) "Parent-child legal relationship" means the legal relationship that exists between a child and the child's birth or adoptive parents, as provided in Title 40, chapter 6, part 2, unless the relationship has been terminated by competent judicial decree as provided in 40-6-234, Title 42, or part 6 of this chapter.

(20) "Permanent placement" means reunification of the child with the child's parent, adoption, placement with a legal guardian, placement with a fit and willing relative, or placement in another planned permanent living arrangement until the child reaches 18 years of age.

(21) "Physical abuse" means an intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.

(22) "Physical neglect" means:

(a) failure to provide basic necessities, including but not limited to appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to weather conditions;

(b) failure to provide cleanliness and general supervision, or both;

(c) exposing or allowing the child to be exposed to an unreasonable physical or psychological risk to the child;

(d) allowing sexual abuse or exploitation of the child; or

(e) causing malnutrition or a failure to thrive.

(23) "Physical or psychological harm to a child" means the harm that occurs whenever the parent or other person responsible for the child's welfare inflicts or allows to be inflicted on the child physical abuse, physical neglect, or psychological abuse or neglect.

(24) (a) "Protective services" means services provided by the department:

(i) to enable a child alleged to have been abused or neglected to remain safely in the home;

(ii) to enable a child alleged to have been abused or neglected who has been removed from the home to safely return to the home; or

(iii) to achieve permanency for a child adjudicated as a youth in need of care when circumstances and the best interests of the child prevent reunification with parents or a return to the home.

(b) The term includes emergency protective services provided pursuant to 41-3-301, written prevention plans provided pursuant to 41-3-302, and court-ordered protective services provided pursuant to parts 4 and 6 of this chapter.

(25) (a) "Psychological abuse or neglect" means severe maltreatment, through acts or omissions, that is injurious to the child's intellectual or psychological capacity to function and that is identified as psychological abuse or neglect by a licensed psychologist, a licensed professional counselor, a licensed clinical social worker, a licensed psychiatrist, a licensed pediatrician,

or a licensed advanced practice registered nurse with a focused practice in psychiatry.

(b) The term includes but is not limited to the commission of acts of violence against another person residing in the child's home.

(c) The term may not be construed to hold a victim responsible for failing to prevent the crime against the victim.

(26) "Qualified expert witness" as used in cases involving an Indian child in proceedings subject to the federal Indian Child Welfare Act or the Montana Indian Child Welfare Act provided for in Title 41, chapter 3, part 13, means:

(a) a member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to a family organization and child-rearing practices;

(b) a lay expert witness who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child-rearing practices within the Indian child's tribe; or

(c) a professional person who has substantial education and experience in providing services to children and families and who possesses significant knowledge of and experience with Indian culture, family structure, and child-rearing practices in general.

(27) "Qualified individual" means a trained professional or licensed clinician who:

(a) has expertise in the therapeutic needs assessment used for placement of youth in a therapeutic group home;

(b) is not an employee of the department; and

(c) is not connected to or affiliated with any placement setting in which children are placed.

(28) "Reasonable cause to suspect" means cause that would lead a reasonable person to believe that child abuse or neglect may have occurred or is occurring, based on all the facts and circumstances known to the person.

(29) "Residential setting" means an out-of-home placement where the child typically resides for longer than 30 days for the purpose of receiving food, shelter, security, guidance, and, if necessary, treatment.

(30) "Safety and risk assessment" means an evaluation by a child protection specialist following an initial report of child abuse or neglect to assess the following:

(a) the existing threat or threats to the child's safety;

(b) the protective capabilities of the parent or guardian;

(c) any particular vulnerabilities of the child;

(d) any interventions required to protect the child; and

(e) the likelihood of future physical or psychological harm to the child.

(31) (a) "Sexual abuse" means the commission of sexual assault, sexual intercourse without consent, aggravated sexual intercourse without consent, indecent exposure, sexual abuse, ritual abuse of a minor, or incest, as described in Title 45, chapter 5.

(b) Sexual abuse does not include any necessary touching of an infant's or toddler's genital area while attending to the sanitary or health care needs of that infant or toddler by a parent or other person responsible for the child's welfare.

(32) "Sexual exploitation" means:

(a) allowing, permitting, or encouraging a child to engage in a prostitution offense, as described in 45-5-601;

(b) allowing, permitting, or encouraging sexual abuse of children as described in 45-5-625; or

(c) allowing, permitting, or encouraging sex trafficking as described in 45-5-702, 45-5-705, 45-5-706, or 45-5-711.

(33) “Therapeutic needs assessment” means an assessment performed by a qualified individual within 30 days of placement of a child in a therapeutic group home that:

(a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool;

(b) determines whether the needs of the child can be met with family members or through placement in a youth foster home or, if not, which appropriate setting would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals for the child as specified in the child’s permanency plan; and

(c) develops a list of child-specific short-term and long-term mental and behavioral health goals.

(34) “Treatment plan” means a written agreement between the department and the parent or guardian or a court order that includes action that must be taken to resolve the condition or conduct of the parent or guardian that resulted in the need for protective services for the child. The treatment plan may involve court services, the department, and other parties, if necessary, for protective services.

(35) (a) “Withholding of medically indicated treatment” means the failure to respond to an infant’s life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication, that, in the treating physician’s or physicians’ reasonable medical judgment, will be most likely to be effective in ameliorating or correcting the conditions.

(b) The term does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication, to an infant when, in the treating physician’s or physicians’ reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of treatment would:

(A) merely prolong dying;

(B) not be effective in ameliorating or correcting all of the infant’s life-threatening conditions; or

(C) otherwise be futile in terms of the survival of the infant; or

(iii) the provision of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane. For purposes of this subsection (35), “infant” means an infant less than 1 year of age or an infant 1 year of age or older who has been continuously hospitalized since birth, who was born extremely prematurely, or who has a long-term disability. The reference to less than 1 year of age may not be construed to imply that treatment should be changed or discontinued when an infant reaches 1 year of age or to affect or limit any existing protections available under state laws regarding medical neglect of children 1 year of age or older.

(36) “Youth in need of care” means a youth who has been adjudicated or determined, after a hearing, to be or to have been abused, neglected, or abandoned. (Terminates June 30, 2025--sec. 55, Ch. 716, L. 2023.)

41-3-102. (Effective July 1, 2025) Definitions. As used in this chapter, the following definitions apply:

(1) (a) “Abandon”, “abandoned”, and “abandonment” mean:

(i) leaving a child under circumstances that make reasonable the belief that the parent does not intend to resume care of the child in the future;

(ii) willfully surrendering physical custody for a period of 6 months and during that period not manifesting to the child and the person having physical custody of the child a firm intention to resume physical custody or to make permanent legal arrangements for the care of the child;

(iii) that the parent is unknown and has been unknown for a period of 90 days and that reasonable efforts to identify and locate the parent have failed; or

(iv) the voluntary surrender, as defined in 40-6-402, by a parent of a newborn who is no more than 30 days old to an emergency services provider, as defined in 40-6-402.

(b) The terms do not include the voluntary surrender of a child to the department solely because of parental inability to access publicly funded services.

(2) "A person responsible for a child's welfare" means:

(a) the child's parent, guardian, or foster parent or an adult who resides in the same home in which the child resides;

(b) a person providing care in a day-care facility;

(c) an employee of a public or private residential institution, facility, home, or agency; or

(d) any other person responsible for the child's welfare in a residential setting.

(3) "Abused or neglected" means the state or condition of a child who has suffered child abuse or neglect.

(4) (a) "Adequate health care" means any medical care or nonmedical remedial health care recognized by an insurer licensed to provide disability insurance under Title 33, including the prevention of the withholding of medically indicated treatment or medically indicated psychological care permitted or authorized under state law.

(b) This chapter may not be construed to require or justify a finding of child abuse or neglect for the sole reason that a parent or legal guardian, because of religious beliefs, does not provide adequate health care for a child. However, this chapter may not be construed to limit the administrative or judicial authority of the state to ensure that medical care is provided to the child when there is imminent substantial risk of serious harm to the child.

(5) "Best interests of the child" means the physical, mental, and psychological conditions and needs of the child and any other factor considered by the court to be relevant to the child.

(6) "*Case determination*" means a determination to a specified degree of proof, made by the department after the investigation is completed, on whether the reported act of child abuse or neglect occurred. Case determinations are limited to the general categories of substantiated, unsubstantiated, and unfounded.

(6)(7) "Child" or "youth" means any person under 18 years of age.

(7)(8) (a) "Child abuse or neglect" means:

(i) actual physical or psychological harm to a child;

(ii) substantial risk of physical or psychological harm to a child; or

(iii) abandonment.

(b) (i) The term includes:

(A) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare;

(B) exposing a child to the criminal distribution of dangerous drugs, as prohibited by 45-9-101, the criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110, or the operation of an unlawful clandestine laboratory, as prohibited by 45-9-132; or

(C) any form of child sex trafficking or human trafficking.

(ii) For the purposes of this subsection ~~(7)~~ (8), “dangerous drugs” means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2.

(c) In proceedings under this chapter in which the federal Indian Child Welfare Act is applicable, this term has the same meaning as “serious emotional or physical damage to the child” as used in 25 U.S.C. 1912(f).

(d) The term does not include:

(i) self-defense, defense of others, or action taken to prevent the child from self-harm that does not constitute physical or psychological harm to a child; or

(ii) a youth not receiving supervision solely because of parental inability to control the youth’s behavior.

~~(8)~~(9) “Child protection specialist” means an employee of the department who investigates allegations of child abuse, neglect, and endangerment and has been certified pursuant to 41-3-127.

~~(9)~~(10) “Concurrent planning” means to work toward reunification of the child with the family while at the same time developing and implementing an alternative permanent plan.

~~(10)~~(11) “Decline to prosecute” means a decision not to file criminal charges based on the matter reported by the department or investigation by law enforcement for any reason, including but not limited to insufficient evidence.

~~(11)~~(12) “Department” means the department of public health and human services provided for in 2-15-2201.

~~(12)~~(13) “Family engagement meeting” means a meeting that involves family members in either developing treatment plans or making placement decisions, or both.

~~(13)~~(14) “Indian child” means any unmarried person who is under 18 years of age and who is either:

(a) a member of an Indian tribe; or

(b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

~~(14)~~(15) “Indian child’s tribe” means:

(a) the Indian tribe in which an Indian child is a member or eligible for membership; or

(b) in the case of an Indian child who is a member of or eligible for membership in more than one Indian tribe, the Indian tribe with which the Indian child has the more significant contacts.

~~(15)~~(16) “Indian custodian” means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control have been transferred by the child’s parent.

~~(16)~~(17) “Indian tribe” means any Indian tribe, band, nation, or other organized group or community of Indians recognized by:

(a) the state of Montana; or

(b) the United States secretary of the interior as being eligible for the services provided to Indians or because of the group’s status as Indians, including any Alaskan native village as defined in federal law.

~~(17)~~(18) “Limited emancipation” means a status conferred on a youth by a court in accordance with 41-1-503 under which the youth is entitled to exercise some but not all of the rights and responsibilities of a person who is 18 years of age or older.

~~(18)~~(19) “Parent” means a biological or adoptive parent or stepparent.

~~(19)~~(20) “Parent-child legal relationship” means the legal relationship that exists between a child and the child’s birth or adoptive parents, as provided

in Title 40, chapter 6, part 2, unless the relationship has been terminated by competent judicial decree as provided in 40-6-234, Title 42, or part 6 of this chapter.

(20)(21) "Permanent placement" means reunification of the child with the child's parent, adoption, placement with a legal guardian, placement with a fit and willing relative, or placement in another planned permanent living arrangement until the child reaches 18 years of age.

(21)(22) "Physical abuse" means an intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.

(22)(23) "Physical neglect" means:

(a) failure to provide basic necessities, including but not limited to appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to weather conditions;

(b) failure to provide cleanliness and general supervision, or both;

(c) exposing or allowing the child to be exposed to an unreasonable physical or psychological risk to the child;

(d) allowing sexual abuse or exploitation of the child; or

(e) causing malnutrition or a failure to thrive.

(23)(24) "Physical or psychological harm to a child" means the harm that occurs whenever the parent or other person responsible for the child's welfare inflicts or allows to be inflicted on the child physical abuse, physical neglect, or psychological abuse or neglect.

(24)(25) (a) "Protective services" means services provided by the department:

(i) to enable a child alleged to have been abused or neglected to remain safely in the home;

(ii) to enable a child alleged to have been abused or neglected who has been removed from the home to safely return to the home; or

(iii) to achieve permanency for a child adjudicated as a youth in need of care when circumstances and the best interests of the child prevent reunification with parents or a return to the home.

(b) The term includes emergency protective services provided pursuant to 41-3-301, written prevention plans provided pursuant to 41-3-302, and court-ordered protective services provided pursuant to parts 4 and 6 of this chapter.

(25)(26) (a) "Psychological abuse or neglect" means severe maltreatment, through acts or omissions, that is injurious to the child's intellectual or psychological capacity to function and that is identified as psychological abuse or neglect by a licensed psychologist, a licensed professional counselor, a licensed clinical social worker, a licensed psychiatrist, a licensed pediatrician, or a licensed advanced practice registered nurse with a focused practice in psychiatry.

(b) The term includes but is not limited to the commission of acts of violence against another person residing in the child's home.

(c) The term may not be construed to hold a victim responsible for failing to prevent the crime against the victim.

(26)(27) "Qualified expert witness" as used in cases involving an Indian child in proceedings subject to the federal Indian Child Welfare Act means:

(a) a member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and child-rearing practices;

(b) a lay expert witness who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child-rearing practices within the Indian child's tribe; or

(c) a professional person who has substantial education and experience in providing services to children and families and who possesses significant knowledge of and experience with Indian culture, family structure, and child-rearing practices in general.

(27)(28) "Qualified individual" means a trained professional or licensed clinician who:

(a) has expertise in the therapeutic needs assessment used for placement of youth in a therapeutic group home;

(b) is not an employee of the department; and

(c) is not connected to or affiliated with any placement setting in which children are placed.

(28)(29) "Reasonable cause to suspect" means cause that would lead a reasonable person to believe that child abuse or neglect may have occurred or is occurring, based on all the facts and circumstances known to the person.

(29)(30) "Residential setting" means an out-of-home placement where the child typically resides for longer than 30 days for the purpose of receiving food, shelter, security, guidance, and, if necessary, treatment.

(30)(31) "Safety and risk assessment" means an evaluation by a child protection specialist following an initial report of child abuse or neglect to assess the following:

(a) the existing threat or threats to the child's safety;

(b) the protective capabilities of the parent or guardian;

(c) any particular vulnerabilities of the child;

(d) any interventions required to protect the child; and

(e) the likelihood of future physical or psychological harm to the child.

(31)(32) (a) "Sexual abuse" means the commission of sexual assault, sexual intercourse without consent, aggravated sexual intercourse without consent, indecent exposure, sexual abuse, ritual abuse of a minor, or incest, as described in Title 45, chapter 5.

(b) Sexual abuse does not include any necessary touching of an infant's or toddler's genital area while attending to the sanitary or health care needs of that infant or toddler by a parent or other person responsible for the child's welfare.

(32)(33) "Sexual exploitation" means:

(a) allowing, permitting, or encouraging a child to engage in a prostitution offense, as described in 45-5-601;

(b) allowing, permitting, or encouraging sexual abuse of children as described in 45-5-625; or

(c) allowing, permitting, or encouraging sex trafficking as described in 45-5-702, 45-5-705, 45-5-706, or 45-5-711.

(34) "Substantiated" means that the department has investigated the reported act of child abuse or neglect and determined by a preponderance of the evidence that an act of child abuse or neglect occurred.

(33)(35) "Therapeutic needs assessment" means an assessment performed by a qualified individual within 30 days of placement of a child in a therapeutic group home that:

(a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool;

(b) determines whether the needs of the child can be met with family members or through placement in a youth foster home or, if not, which

appropriate setting would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals for the child as specified in the child's permanency plan; and

(c) develops a list of child-specific short-term and long-term mental and behavioral health goals.

(34)(36) "Treatment plan" means a written agreement between the department and the parent or guardian or a court order that includes action that must be taken to resolve the condition or conduct of the parent or guardian that resulted in the need for protective services for the child. The treatment plan may involve court services, the department, and other parties, if necessary, for protective services.

(37) "Unfounded" means that the department has investigated the reported act of child abuse or neglect and there is no evidence to corroborate the report.

(38) "Unsubstantiated" means that the department has investigated the reported act of child abuse or neglect and is unable to determine by a preponderance of the evidence that an act of child abuse or neglect occurred.

(35)(39) (a) "Withholding of medically indicated treatment" means the failure to respond to an infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication, that, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting the conditions.

(b) The term does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication, to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of treatment would:

(A) merely prolong dying;

(B) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

(C) otherwise be futile in terms of the survival of the infant; or

(iii) the provision of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane. For purposes of this subsection (35) (39), "infant" means an infant less than 1 year of age or an infant 1 year of age or older who has been continuously hospitalized since birth, who was born extremely prematurely, or who has a long-term disability. The reference to less than 1 year of age may not be construed to imply that treatment should be changed or discontinued when an infant reaches 1 year of age or to affect or limit any existing protections available under state laws regarding medical neglect of children 1 year of age or older.

(36)(40) "Youth in need of care" means a youth who has been adjudicated or determined, after a hearing, to be or to have been abused, neglected, or abandoned."

Approved May 8, 2025

CHAPTER NO. 576

[SB 414]

AN ACT GENERALLY REVISING LAWS RELATED TO GARBAGE FEEDING; PROHIBITING PACKAGING MATERIALS FROM BEING INCLUDED IN GARBAGE FED TO SWINE; REVISING A DEFINITION; AND AMENDING SECTIONS 81-2-501, 81-2-502, AND 81-2-511, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 81-2-501, MCA, is amended to read:

“81-2-501. Definitions. When used in this part, the following definitions apply:

(1) ~~“Garbage” means wastes resulting from the handling, preparation, cooking, and consumption of animal products, including animal carcasses or parts of animal carcasses, or other refuse of any character that has been associated with any animal products, including animal carcasses or parts of animal carcasses. Waste products that do not contain animal products are not considered garbage for the purpose of garbage feeding.~~

(1) (a) *“Garbage” means:*

(i) *waste material derived in whole or in part from the meat of an animal, including fish and poultry, or from other animal materials, including animal carcasses;*

(ii) *other waste materials resulting from the handling, preparation, cooking, or consumption of food; or*

(iii) *packaging materials.*

(b) *The term does not include other waste materials that do not contain animal products.*

(2) *“Garbage feeder” means a person who handles, prepares, cooks, or otherwise treats garbage to feed to swine or other animals, as well as a person who feeds garbage to swine or other animals.*

(3) *“Person” means the state, any municipality, political subdivision, school district, institution, public or private corporation, individual, partnership, or other entity.”*

Section 2. Section 81-2-502, MCA, is amended to read:

“81-2-502. Illegal to feed garbage to swine. (1) It is unlawful to:

(a) *handle, prepare, cook, or otherwise treat garbage to feed to swine or other animals; or to*

(b) *feed garbage to swine or other animals.*

(2) *This part does not apply to a person who feeds only the person’s own household garbage to swine or other animals under their ownership.”*

Section 3. Section 81-2-511, MCA, is amended to read:

~~**“81-2-511. Penalties.** Any person who shall violate any of the provisions of or who fails to perform any duty imposed by this part shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$50 or more than \$250 or by imprisonment for a term of not more than 6 months or by both such fine and imprisonment. In addition thereto, such person may be enjoined from continuing such violation. Each day upon which such violation occurs shall constitute a separate violation.~~

~~(1) *A person who violates this part is guilty of a misdemeanor and is subject to a fine of not less than \$50 or more than \$250, imprisonment for not more than 6 months, or both.*~~

~~(2) *A court may issue an injunction to prohibit a person from repeating a violation of this part.*~~

~~(3) *Each day of violation constitutes a separate violation for the purposes of this section.”*~~

Approved May 8, 2025

CHAPTER NO. 577

[SB 449]

AN ACT GENERALLY REVISING HEALTH UTILIZATION REVIEW LAWS; PROVIDING FOR CONTINUING APPROVAL FOR ENROLLEES CHANGING HEALTH PLANS; GENERALLY PROHIBITING PRIOR AUTHORIZATION FOR PRESCRIPTIONS WRITTEN AT DISCHARGE FROM INPATIENT CARE; GENERALLY PROHIBITING RETROACTIVE DENIAL; PROVIDING REQUIREMENTS FOR ACCEPTING AND RESPONDING TO PRIOR AUTHORIZATION REQUESTS; PROVIDING A DEFINITION; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Continuity of approval for enrollees changing health plans. (1) On receipt of information documenting a prior authorization of approval from an enrollee or from the enrollee's health care professional or health care provider, a health insurance issuer or its contracted utilization review organization shall honor a prior authorization granted to an enrollee from a previous health insurance issuer or its contracted utilization review organization for at least the initial 90 days of an enrollee's coverage under a new health plan, subject to the terms of the member's coverage agreement.

(2) During the time period described in section (1), a health insurance issuer or its contracted utilization review organization may perform its own review to grant a prior authorization approval subject to the terms of the member's coverage agreement.

(3) If there is a change in coverage of or approval criteria for a previously authorized health care service, the change in coverage or approval criteria does not affect an enrollee who received prior authorization approval before the effective date of the change for the remainder of the enrollee's plan year.

(4) A health insurance issuer or its utilization review organization shall continue to honor a certification it has granted to a covered person when the person changes to a product offered by the same health insurance issuer, provided that the services are covered under the new plan.

(5) Nothing in this section may require a policy to cover any care, treatment, or services for a health condition that the terms of coverage otherwise completely excluded from the policy's covered benefits without regard for whether the care, treatment, or services are medically necessary.

(6) No enrollee may be required to repeat a step therapy protocol if the enrollee, while under the enrollee's current or a previous health plan, used the prescription drug required by the step therapy protocol or another prescription drug in the same pharmacologic class with a similar efficacy and side effect profile or with the same mechanism of action and discontinued use of the drug due to lack of efficacy, effectiveness, an adverse event, or contraindication. The enrollee's prescribing provider shall submit justification and clinical information, if requested, that demonstrates a clinically valid reason for why the covered prescribed drug is needed and documentation of completion of previous step therapy protocols for the prescribed drug.

(7) As used in this section, "step therapy protocol" means an evidence-based protocol or program that establishes the specific sequence in which prescription drugs for a specified medical condition are considered medically appropriate for a particular patient and are covered by a health insurer or health benefit plan.

Section 2. Prohibition on prior authorization requirements for prescriptions written at discharge from inpatient care. (1) A prescription written for an inpatient and patient under observation at the time of discharge requiring a prior authorization may not be subject to prior authorization requirements and must be immediately approved for not less than 3 days, provided that:

(a) the cost of the medication does not exceed \$5,000 a day; and

(b) the physician shall note on the prescription or notify the pharmacy that the prescription is being provided at discharge.

(2) Approval beyond 3 days is subject to prior authorization review under 33-32-212.

Section 3. Prohibition on retroactive denial. When prior authorization for a covered service is required of and obtained by or on behalf of a member, the approval is final and may not be rescinded after the covered service has been provided. This section does not apply to cases of fraud, misrepresentation, nonpayment of premium, and exhaustion of benefits or if the member for whom the prior approval was granted is not covered when the service is provided.

Section 4. Required method of accepting prior authorization requests. (1) A health insurance issuer or utilization review organization shall accept and respond electronically to prior authorization requests from a health care provider submitted through a secure electronic transmission as determined by the health insurance issuer or utilization review organization.

(2) If a prior authorization for a prescription drug is submitted electronically using the national council for prescription drug program's standard for electronic prior authorization transactions, then the health insurance issuer or utilization review organization shall accept and respond to the prior authorization request using the same standard for electronic prior authorization transactions.

(3) This section does not require a health care professional to submit prior authorization requests electronically.

Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 33, chapter 32, and the provisions of Title 33, chapter 32, apply to [sections 1 through 4].

Section 6. Coordination instruction. (1) If both House Bill 544 and [this act] are passed and approved, then [section 3 of this act] is void.

(2) If both House Bill 398 and [this act] are passed and approved, then [section 1 of this act] is void.

Section 7. Applicability. [This act] applies to policies or agreements to provide coverage for health care services issued or renewed on or after [the effective date of this act].

Approved May 8, 2025

CHAPTER NO. 578

[SB 464]

AN ACT REVISING LAWS RELATED TO THE APPOINTMENT OF SPECIAL ADVOCATES IN CHILD ABUSE AND NEGLECT PROCEEDINGS; REVISING DUTIES OF SPECIAL ADVOCATES; PROVIDING A DEFINITION OF SPECIAL ADVOCATE; AND AMENDING SECTIONS 41-3-102, 41-3-112, AND 41-3-425, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 41-3-112, MCA, is amended to read:

~~“41-3-112. Appointment of court-appointed special advocate = guardian ad litem.~~ (1) In every judicial proceeding, the court ~~shall~~ *shall* appoint a ~~court-appointed~~ special advocate ~~as the guardian ad litem~~ for any child alleged to be abused or neglected. ~~If a court-appointed special advocate is not available for appointment, the court may appoint an attorney or other qualified person to serve as the guardian ad litem.~~ The ~~A governmental~~ department or any member of its staff who has a direct conflict of interest may not be appointed as the ~~guardian ad litem~~ *special advocate* in a judicial proceeding under this title. ~~When necessary, the guardian ad litem may serve at public expense.~~

(2) A prospective special advocate must meet the following minimum qualifications:

(a) be at least 21 years old and have demonstrated an interest in children and children’s welfare;

(b) be willing to commit to the court for a minimum of 1 year of service to a child;

(c) have completed an application and have provided required background information; and

(d) have completed a screening interview.

(3) An appointed special advocate may not:

(a) accept any compensation for the duties and responsibilities of the special advocate’s appointment;

(b) have any association that creates a conflict of interest with the special advocate’s duties;

(c) be related to any party or attorney involved in a case;

(d) be employed in a position that could result in a conflict of interest or give rise to the appearance of a conflict; or

(e) use the special advocate’s position to seek or accept gifts or special privileges.

(2)(4) The ~~guardian ad litem~~ special advocate must have received appropriate training that is specifically related to serving as an advocate for a child’s court-appointed representative: the best interests of a child and that includes:

(a) completing preservice training, including instruction on recognizing child abuse and neglect, cultural awareness, child development, education standards, the juvenile court process, permanency planning, volunteer roles and responsibilities, advocacy, information gathering, and documentation; and

(b) observing court proceedings prior to appointment.

(3)(5) The ~~guardian ad litem~~ special advocate is ~~charged with the representation of~~ shall advocate for the child’s best interests and shall perform the following general duties:

(a) to conduct investigations to ascertain the facts constituting the alleged abuse or neglect an independent review regarding the best interests of the child to provide factual information to the court regarding the child and the child’s family;

(b) to interview or and observe the child who is the subject of the proceeding and other appropriate individuals and review relevant records and reports;

(c) to have access to court, medical, psychological, law enforcement, social services, and school records pertaining to the child, and the child’s siblings and parents or custodians; including records of siblings, parents, or caretakers if the records are relevant to the issues in the case. Access to medical and psychological records of siblings, parents, or caretakers must be provided in

compliance with the Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d, et seq., and the legislative findings in 50-16-502.

(d) maintain confidentiality of all information regarding a case and not disclose the information except to the court, to the other parties, or to the department. A special advocate's duty of confidentiality is not extinguished by the dismissal of the case. Special advocates shall follow applicable law, administrative policies, and procedures regarding access to, use of, and release of information about the children served to ensure that confidentiality is maintained at all times.

~~(d)(e) to make~~ prepare written reports for distribution to the court and the parties concerning the child's welfare;

~~(e)(f) to appear and participate in all proceedings to the degree necessary to adequately represent the child and make recommendations to the court concerning the child's welfare~~ best interests, including if additional services are necessary;

(g) monitor the case to completion to ensure that the child's essential needs are met and that the terms of the court's orders are fulfilled;

(h) seek to ensure that reasonable efforts are made to prevent unnecessary placement of the child out of the home and facilitate reunification of the child with the child's family if it is in the child's best interests. In determining whether reasonable efforts are made with respect to a child, the child's health and safety are the paramount concern.

(i) if reunification is not possible, work with the child to assist the child in adjusting to another safe and permanent living arrangement;

~~(f)(j)~~ to perform other duties as directed by the court; and

~~(g)(k) if an attorney, to file motions, including but not limited to filing to expedite proceedings or otherwise assert the child's rights work directly with the child's legal representative to protect the constitutional rights of the child and advocate for the child's best interests.~~

~~(4) Information contained in a report filed by the guardian ad litem or testimony regarding a report filed by the guardian ad litem is not hearsay when it is used to form the basis of the guardian ad litem's opinion as to the best interests of the child.~~

(6) Information contained in a report filed by the special advocate or testimony regarding a report filed by the special advocate is not hearsay when it is used to form the basis of the special advocate's opinion as to the best interests of the child.

~~(5)(7) Any party may petition the court for the removal and replacement of the guardian ad litem special advocate if the guardian ad litem special advocate fails to perform the duties of the appointment.~~

(8) A special advocate may raise concerns to the court about conduct that is contrary to the best interests of the child.

(9) The court shall actively pursue services of a volunteer special advocate program. If a special advocate is not available for appointment, a judge may appoint an attorney or other qualified person to serve as special advocate and perform the duties enumerated in subsection (5). When necessary, the special advocate may serve at the public expense."

Section 2. Section 41-3-102, MCA, is amended to read:

~~"41-3-102. (Temporary) Definitions.~~ As used in this chapter, the following definitions apply:

(1) (a) "Abandon", "abandoned", and "abandonment" mean:

(i) leaving a child under circumstances that make reasonable the belief that the parent does not intend to resume care of the child in the future;

(ii) willfully surrendering physical custody for a period of 6 months and during that period not manifesting to the child and the person having physical custody of the child a firm intention to resume physical custody or to make permanent legal arrangements for the care of the child;

(iii) that the parent is unknown and has been unknown for a period of 90 days and that reasonable efforts to identify and locate the parent have failed; or

(iv) the voluntary surrender, as defined in 40-6-402, by a parent of a newborn who is no more than 30 days old to an emergency services provider, as defined in 40-6-402.

(b) The terms do not include the voluntary surrender of a child to the department solely because of parental inability to access publicly funded services:

(2) "A person responsible for a child's welfare" means:

(a) the child's parent, guardian, or foster parent or an adult who resides in the same home in which the child resides;

(b) a person providing care in a day-care facility;

(c) an employee of a public or private residential institution, facility, home, or agency; or

(d) any other person responsible for the child's welfare in a residential setting.

(3) "Abused or neglected" means the state or condition of a child who has suffered child abuse or neglect.

(4) (a) "Adequate health care" means any medical care or nonmedical remedial health care recognized by an insurer licensed to provide disability insurance under Title 33, including the prevention of the withholding of medically indicated treatment or medically indicated psychological care permitted or authorized under state law.

(b) This chapter may not be construed to require or justify a finding of child abuse or neglect for the sole reason that a parent or legal guardian, because of religious beliefs, does not provide adequate health care for a child. However, this chapter may not be construed to limit the administrative or judicial authority of the state to ensure that medical care is provided to the child when there is imminent substantial risk of serious harm to the child.

(5) "Best interests of the child" means the physical, mental, and psychological conditions and needs of the child and any other factor considered by the court to be relevant to the child.

(6) "Child" or "youth" means any person under 18 years of age.

(7) (a) "Child abuse or neglect" means:

(i) actual physical or psychological harm to a child;

(ii) substantial risk of physical or psychological harm to a child; or

(iii) abandonment.

(b) (i) The term includes:

(A) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare;

(B) exposing a child to the criminal distribution of dangerous drugs, as prohibited by 45-9-101, the criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110, or the operation of an unlawful clandestine laboratory, as prohibited by 45-9-132; or

(C) any form of child sex trafficking or human trafficking.

(ii) For the purposes of this subsection (7), "dangerous drugs" means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2.

(c) In proceedings under this chapter in which the federal Indian Child Welfare Act or the Montana Indian Child Welfare Act provided for in Title 41, chapter 3, part 13, are applicable, this term has the same meaning as “serious emotional or physical damage to the child” as used in 25 U.S.C. 1912(f).

(d) The term does not include:

(i) self-defense, defense of others, or action taken to prevent the child from self-harm that does not constitute physical or psychological harm to a child; or

(ii) a youth not receiving supervision solely because of parental inability to control the youth’s behavior.

(8) “Child protection specialist” means an employee of the department who investigates allegations of child abuse, neglect, and endangerment and has been certified pursuant to 41-3-127.

(9) “Concurrent planning” means to work toward reunification of the child with the family while at the same time developing and implementing an alternative permanent plan.

(10) “Decline to prosecute” means a decision not to file criminal charges based on the matter reported by the department or investigation by law enforcement for any reason, including but not limited to insufficient evidence.

(11) “Department” means the department of public health and human services provided for in 2-15-2201.

(12) “Family engagement meeting” means a meeting that involves family members in either developing treatment plans or making placement decisions, or both.

(13) “Indian child” has the meaning provided in 41-3-1303.

(14) “Indian child’s tribe” has the meaning provided in 41-3-1303.

(15) “Indian custodian” has the meaning provided in 41-3-1303.

(16) “Indian tribe” has the meaning provided in 41-3-1303.

(17) “Limited emancipation” means a status conferred on a youth by a court in accordance with 41-1-503 under which the youth is entitled to exercise some but not all of the rights and responsibilities of a person who is 18 years of age or older.

(18) “Parent” means a biological or adoptive parent or stepparent.

(19) “Parent-child legal relationship” means the legal relationship that exists between a child and the child’s birth or adoptive parents, as provided in Title 40, chapter 6, part 2, unless the relationship has been terminated by competent judicial decree as provided in 40-6-234, Title 42, or part 6 of this chapter.

(20) “Permanent placement” means reunification of the child with the child’s parent, adoption, placement with a legal guardian, placement with a fit and willing relative, or placement in another planned permanent living arrangement until the child reaches 18 years of age.

(21) “Physical abuse” means an intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.

(22) “Physical neglect” means:

(a) failure to provide basic necessities, including but not limited to appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to weather conditions;

(b) failure to provide cleanliness and general supervision, or both;

(c) exposing or allowing the child to be exposed to an unreasonable physical or psychological risk to the child;

(d) allowing sexual abuse or exploitation of the child; or

(e) causing malnutrition or a failure to thrive.

(23) ~~“Physical or psychological harm to a child” means the harm that occurs whenever the parent or other person responsible for the child’s welfare inflicts or allows to be inflicted on the child physical abuse, physical neglect, or psychological abuse or neglect.~~

(24) (a) ~~“Protective services” means services provided by the department:~~

(i) ~~to enable a child alleged to have been abused or neglected to remain safely in the home;~~

(ii) ~~to enable a child alleged to have been abused or neglected who has been removed from the home to safely return to the home; or~~

(iii) ~~to achieve permanency for a child adjudicated as a youth in need of care when circumstances and the best interests of the child prevent reunification with parents or a return to the home.~~

(b) ~~The term includes emergency protective services provided pursuant to 41-3-301, written prevention plans provided pursuant to 41-3-302, and court-ordered protective services provided pursuant to parts 4 and 6 of this chapter.~~

(25) (a) ~~“Psychological abuse or neglect” means severe maltreatment, through acts or omissions, that is injurious to the child’s intellectual or psychological capacity to function and that is identified as psychological abuse or neglect by a licensed psychologist, a licensed professional counselor, a licensed clinical social worker, a licensed psychiatrist, a licensed pediatrician, or a licensed advanced practice registered nurse with a focused practice in psychiatry.~~

(b) ~~The term includes but is not limited to the commission of acts of violence against another person residing in the child’s home.~~

(c) ~~The term may not be construed to hold a victim responsible for failing to prevent the crime against the victim.~~

(26) ~~“Qualified expert witness” as used in cases involving an Indian child in proceedings subject to the federal Indian Child Welfare Act or the Montana Indian Child Welfare Act provided for in Title 41, chapter 3, part 13, means:~~

(a) ~~a member of the Indian child’s tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to a family organization and child-rearing practices;~~

(b) ~~a lay expert witness who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child-rearing practices within the Indian child’s tribe; or~~

(c) ~~a professional person who has substantial education and experience in providing services to children and families and who possesses significant knowledge of and experience with Indian culture, family structure, and child-rearing practices in general.~~

(27) ~~“Qualified individual” means a trained professional or licensed clinician who:~~

(a) ~~has expertise in the therapeutic needs assessment used for placement of youth in a therapeutic group home;~~

(b) ~~is not an employee of the department; and~~

(c) ~~is not connected to or affiliated with any placement setting in which children are placed.~~

(28) ~~“Reasonable cause to suspect” means cause that would lead a reasonable person to believe that child abuse or neglect may have occurred or is occurring, based on all the facts and circumstances known to the person.~~

(29) “Residential setting” means an out-of-home placement where the child typically resides for longer than 30 days for the purpose of receiving food, shelter, security, guidance, and, if necessary, treatment.

(30) “Safety and risk assessment” means an evaluation by a child protection specialist following an initial report of child abuse or neglect to assess the following:

- (a) the existing threat or threats to the child’s safety;
- (b) the protective capabilities of the parent or guardian;
- (c) any particular vulnerabilities of the child;
- (d) any interventions required to protect the child; and
- (e) the likelihood of future physical or psychological harm to the child.

(31) (a) “Sexual abuse” means the commission of sexual assault, sexual intercourse without consent, aggravated sexual intercourse without consent, indecent exposure, sexual abuse, ritual abuse of a minor, or incest, as described in Title 45, chapter 5.

(b) Sexual abuse does not include any necessary touching of an infant’s or toddler’s genital area while attending to the sanitary or health care needs of that infant or toddler by a parent or other person responsible for the child’s welfare.

(32) “Sexual exploitation” means:

(a) allowing, permitting, or encouraging a child to engage in a prostitution offense, as described in 45-5-601;

(b) allowing, permitting, or encouraging sexual abuse of children as described in 45-5-625; or

(c) allowing, permitting, or encouraging sex trafficking as described in 45-5-702, 45-5-705, 45-5-706, or 45-5-711.

(33) “Therapeutic needs assessment” means an assessment performed by a qualified individual within 30 days of placement of a child in a therapeutic group home that:

(a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool;

(b) determines whether the needs of the child can be met with family members or through placement in a youth foster home or, if not, which appropriate setting would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals for the child as specified in the child’s permanency plan; and

(c) develops a list of child-specific short-term and long-term mental and behavioral health goals.

(34) “Treatment plan” means a written agreement between the department and the parent or guardian or a court order that includes action that must be taken to resolve the condition or conduct of the parent or guardian that resulted in the need for protective services for the child. The treatment plan may involve court services, the department, and other parties, if necessary, for protective services.

(35) (a) “Withholding of medically indicated treatment” means the failure to respond to an infant’s life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication, that, in the treating physician’s or physicians’ reasonable medical judgment, will be most likely to be effective in ameliorating or correcting the conditions.

(b) The term does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication, to an infant when, in the treating physician’s or physicians’ reasonable medical judgment:

- (i) the infant is chronically and irreversibly comatose;

(ii) the provision of treatment would:
(A) merely prolong dying;
(B) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or
(C) otherwise be futile in terms of the survival of the infant; or
(iii) the provision of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane. For purposes of this subsection (35), "infant" means an infant less than 1 year of age or an infant 1 year of age or older who has been continuously hospitalized since birth, who was born extremely prematurely, or who has a long-term disability. The reference to less than 1 year of age may not be construed to imply that treatment should be changed or discontinued when an infant reaches 1 year of age or to affect or limit any existing protections available under state laws regarding medical neglect of children 1 year of age or older.

(36) "Youth in need of care" means a youth who has been adjudicated or determined, after a hearing, to be or to have been abused, neglected, or abandoned. (Terminates June 30, 2025--sec. 55, Ch. 716, L. 2023.)

41-3-102. (Effective July 1, 2025) Definitions. As used in this chapter, the following definitions apply:

(1) (a) "Abandon", "abandoned", and "abandonment" mean:
(i) leaving a child under circumstances that make reasonable the belief that the parent does not intend to resume care of the child in the future;
(ii) willfully surrendering physical custody for a period of 6 months and during that period not manifesting to the child and the person having physical custody of the child a firm intention to resume physical custody or to make permanent legal arrangements for the care of the child;
(iii) that the parent is unknown and has been unknown for a period of 90 days and that reasonable efforts to identify and locate the parent have failed;
or

(iv) the voluntary surrender, as defined in 40-6-402, by a parent of a newborn who is no more than 30 days old to an emergency services provider, as defined in 40-6-402.

(b) The terms do not include the voluntary surrender of a child to the department solely because of parental inability to access publicly funded services.

(2) "A person responsible for a child's welfare" means:

(a) the child's parent, guardian, or foster parent or an adult who resides in the same home in which the child resides;

(b) a person providing care in a day-care facility;

(c) an employee of a public or private residential institution, facility, home, or agency; or

(d) any other person responsible for the child's welfare in a residential setting.

(3) "Abused or neglected" means the state or condition of a child who has suffered child abuse or neglect.

(4) (a) "Adequate health care" means any medical care or nonmedical remedial health care recognized by an insurer licensed to provide disability insurance under Title 33, including the prevention of the withholding of medically indicated treatment or medically indicated psychological care permitted or authorized under state law.

(b) This chapter may not be construed to require or justify a finding of child abuse or neglect for the sole reason that a parent or legal guardian, because of religious beliefs, does not provide adequate health care for a child. However,

this chapter may not be construed to limit the administrative or judicial authority of the state to ensure that medical care is provided to the child when there is imminent substantial risk of serious harm to the child.

(5) "Best interests of the child" means the physical, mental, and psychological conditions and needs of the child and any other factor considered by the court to be relevant to the child.

(6) "Child" or "youth" means any person under 18 years of age.

(7) (a) "Child abuse or neglect" means:

(i) actual physical or psychological harm to a child;

(ii) substantial risk of physical or psychological harm to a child; or

(iii) abandonment.

(b) (i) The term includes:

(A) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare;

(B) exposing a child to the criminal distribution of dangerous drugs, as prohibited by 45-9-101, the criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110, or the operation of an unlawful clandestine laboratory, as prohibited by 45-9-132; or

(C) any form of child sex trafficking or human trafficking.

(ii) For the purposes of this subsection (7), "dangerous drugs" means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2.

(c) In proceedings under this chapter in which the federal Indian Child Welfare Act is applicable, this term has the same meaning as "serious emotional or physical damage to the child" as used in 25 U.S.C. 1912(f).

(d) The term does not include:

(i) self-defense, defense of others, or action taken to prevent the child from self-harm that does not constitute physical or psychological harm to a child; or

(ii) a youth not receiving supervision solely because of parental inability to control the youth's behavior.

(8) "Child protection specialist" means an employee of the department who investigates allegations of child abuse, neglect, and endangerment and has been certified pursuant to 41-3-127.

(9) "Concurrent planning" means to work toward reunification of the child with the family while at the same time developing and implementing an alternative permanent plan.

(10) "Decline to prosecute" means a decision not to file criminal charges based on the matter reported by the department or investigation by law enforcement for any reason, including but not limited to insufficient evidence.

(11) "Department" means the department of public health and human services provided for in 2-15-2201.

(12) "Family engagement meeting" means a meeting that involves family members in either developing treatment plans or making placement decisions, or both.

(13) "Indian child" means any unmarried person who is under 18 years of age and who is either:

(a) a member of an Indian tribe; or

(b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(14) "Indian child's tribe" means:

(a) the Indian tribe in which an Indian child is a member or eligible for membership; or

(b) in the case of an Indian child who is a member of or eligible for membership in more than one Indian tribe, the Indian tribe with which the Indian child has the more significant contacts.

(15) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control have been transferred by the child's parent.

(16) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized by:

(a) the state of Montana; or

(b) the United States secretary of the interior as being eligible for the services provided to Indians or because of the group's status as Indians, including any Alaskan native village as defined in federal law.

(17) "Limited emancipation" means a status conferred on a youth by a court in accordance with 41-1-503 under which the youth is entitled to exercise some but not all of the rights and responsibilities of a person who is 18 years of age or older.

(18) "Parent" means a biological or adoptive parent or stepparent.

(19) "Parent-child legal relationship" means the legal relationship that exists between a child and the child's birth or adoptive parents, as provided in Title 40, chapter 6, part 2, unless the relationship has been terminated by competent judicial decree as provided in 40-6-234, Title 42, or part 6 of this chapter.

(20) "Permanent placement" means reunification of the child with the child's parent, adoption, placement with a legal guardian, placement with a fit and willing relative, or placement in another planned permanent living arrangement until the child reaches 18 years of age.

(21) "Physical abuse" means an intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.

(22) "Physical neglect" means:

(a) failure to provide basic necessities, including but not limited to appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to weather conditions;

(b) failure to provide cleanliness and general supervision, or both;

(c) exposing or allowing the child to be exposed to an unreasonable physical or psychological risk to the child;

(d) allowing sexual abuse or exploitation of the child; or

(e) causing malnutrition or a failure to thrive.

(23) "Physical or psychological harm to a child" means the harm that occurs whenever the parent or other person responsible for the child's welfare inflicts or allows to be inflicted on the child physical abuse, physical neglect, or psychological abuse or neglect.

(24) (a) "Protective services" means services provided by the department:

(i) to enable a child alleged to have been abused or neglected to remain safely in the home;

(ii) to enable a child alleged to have been abused or neglected who has been removed from the home to safely return to the home; or

(iii) to achieve permanency for a child adjudicated as a youth in need of care when circumstances and the best interests of the child prevent reunification with parents or a return to the home.

(b) The term includes emergency protective services provided pursuant to 41-3-301, written prevention plans provided pursuant to 41-3-302, and court-ordered protective services provided pursuant to parts 4 and 6 of this chapter.

(25) (a) "Psychological abuse or neglect" means severe maltreatment, through acts or omissions, that is injurious to the child's intellectual or psychological capacity to function and that is identified as psychological abuse or neglect by a licensed psychologist, a licensed professional counselor, a licensed clinical social worker, a licensed psychiatrist, a licensed pediatrician, or a licensed advanced practice registered nurse with a focused practice in psychiatry.

(b) The term includes but is not limited to the commission of acts of violence against another person residing in the child's home.

(c) The term may not be construed to hold a victim responsible for failing to prevent the crime against the victim.

(26) "Qualified expert witness" as used in cases involving an Indian child in proceedings subject to the federal Indian Child Welfare Act means:

(a) a member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and child-rearing practices;

(b) a lay expert witness who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child-rearing practices within the Indian child's tribe; or

(c) a professional person who has substantial education and experience in providing services to children and families and who possesses significant knowledge of and experience with Indian culture, family structure, and child-rearing practices in general.

(27) "Qualified individual" means a trained professional or licensed clinician who:

(a) has expertise in the therapeutic needs assessment used for placement of youth in a therapeutic group home;

(b) is not an employee of the department; and

(c) is not connected to or affiliated with any placement setting in which children are placed.

(28) "Reasonable cause to suspect" means cause that would lead a reasonable person to believe that child abuse or neglect may have occurred or is occurring, based on all the facts and circumstances known to the person.

(29) "Residential setting" means an out-of-home placement where the child typically resides for longer than 30 days for the purpose of receiving food, shelter, security, guidance, and, if necessary, treatment.

(30) "Safety and risk assessment" means an evaluation by a child protection specialist following an initial report of child abuse or neglect to assess the following:

(a) the existing threat or threats to the child's safety;

(b) the protective capabilities of the parent or guardian;

(c) any particular vulnerabilities of the child;

(d) any interventions required to protect the child; and

(e) the likelihood of future physical or psychological harm to the child.

(31) (a) "Sexual abuse" means the commission of sexual assault, sexual intercourse without consent, aggravated sexual intercourse without consent, indecent exposure, sexual abuse, ritual abuse of a minor, or incest, as described in Title 45, chapter 5.

(b) Sexual abuse does not include any necessary touching of an infant's or toddler's genital area while attending to the sanitary or health care needs of that infant or toddler by a parent or other person responsible for the child's welfare.

(32) "Sexual exploitation" means:

(a) allowing, permitting, or encouraging a child to engage in a prostitution offense, as described in 45-5-601;

(b) allowing, permitting, or encouraging sexual abuse of children as described in 45-5-625; or

(c) allowing, permitting, or encouraging sex trafficking as described in 45-5-702, 45-5-705, 45-5-706, or 45-5-711.

(33) *"Special advocate" means a trained volunteer who is appointed as an officer of the court to advocate for the best interests of a child or a sibling group in the child welfare system pursuant to 41-3-112.*

(33)(34) "Therapeutic needs assessment" means an assessment performed by a qualified individual within 30 days of placement of a child in a therapeutic group home that:

(a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool;

(b) determines whether the needs of the child can be met with family members or through placement in a youth foster home or, if not, which appropriate setting would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals for the child as specified in the child's permanency plan; and

(c) develops a list of child-specific short-term and long-term mental and behavioral health goals.

(34)(35) "Treatment plan" means a written agreement between the department and the parent or guardian or a court order that includes action that must be taken to resolve the condition or conduct of the parent or guardian that resulted in the need for protective services for the child. The treatment plan may involve court services, the department, and other parties, if necessary, for protective services.

(35)(36) (a) "Withholding of medically indicated treatment" means the failure to respond to an infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication, that, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting the conditions.

(b) The term does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication, to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of treatment would:

(A) merely prolong dying;

(B) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

(C) otherwise be futile in terms of the survival of the infant; or

(iii) the provision of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane. For purposes of this subsection (35) (36), "infant" means an infant less than 1 year of age or an infant 1 year of age or older who has been continuously hospitalized since birth, who was born extremely prematurely, or who has a long-term disability. The reference to less than 1 year of age may not be construed to imply that treatment should be changed or discontinued when

an infant reaches 1 year of age or to affect or limit any existing protections available under state laws regarding medical neglect of children 1 year of age or older.

(36)(37) “Youth in need of care” means a youth who has been adjudicated or determined, after a hearing, to be or to have been abused, neglected, or abandoned.”

Section 3. Section 41-3-425, MCA, is amended to read:

“41-3-425. Right to counsel. (1) Any party involved in a petition filed pursuant to 41-3-422 has the right to counsel in all proceedings held pursuant to the petition.

(2) Except as provided in subsections (3) and (4), the court shall immediately appoint the office of state public defender to assign counsel for:

(a) any indigent parent, guardian, or other person having legal custody of a child or youth in a removal, placement, or termination proceeding pursuant to 41-3-422, pending a determination of eligibility pursuant to 47-1-111;

(b) any child or youth involved in a proceeding under a petition filed pursuant to 41-3-422;

(c) any party entitled to counsel at public expense under the federal Indian Child Welfare Act ~~for the Montana Indian Child Welfare Act provided for in Title 41, chapter 3, part 13~~; and

(d) any child petitioning for reinstatement of parental rights pursuant to 41-3-615.

~~(3) When appropriate and in accordance with judicial branch policy, the court may assign counsel at the court’s expense for a guardian ad litem or a court-appointed special advocate involved in a proceeding under a petition filed pursuant to 41-3-422.~~

~~(4)(3)~~ Except as provided in the federal Indian Child Welfare Act ~~for the Montana Indian Child Welfare Act~~, a court may not appoint a public defender to a putative father, as defined in 42-2-201, of a child or youth in a removal, placement, or termination proceeding pursuant to 41-3-422 until:

(a) the putative father is successfully served notice of a petition filed pursuant to 41-3-422; and

(b) the putative father makes a request to the court in writing to appoint the office of state public defender to assign counsel. ~~(Bracketed language in subsections (2)(c) and (4) terminates June 30, 2025--sec. 55, Ch. 716, L. 2023.)~~

Approved May 8, 2025

CHAPTER NO. 579

[SB 466]

AN ACT ESTABLISHING FACTORS THAT MUST BE CONSIDERED WHEN DETERMINING THE BEST INTERESTS OF A CHILD.

WHEREAS, children and minors are too often an afterthought in policymaking even though every aspect of government policy impacts kids, from health care to transportation. The government has no way to evaluate whether policies would be good or bad for children, and no unified standard to use for that evaluation; and

WHEREAS, due to the age of children and minors and their dependency, maturity, and lack of mechanisms to make the case for their own interests and needs, children depend on adults in society and government to support their health and well-being; and

WHEREAS, without a clear mandate to consider their needs, children will continue to be disregarded in policy decisions that impact their lives and well-being; and

WHEREAS, a “best interests of the child” standard is the priority of policymaking that creates a benchmark through which all policies can be evaluated and would make positive outcomes for children.

Be it enacted by the Legislature of the State of Montana:

Section 1. Best interests of child – factors to consider. (1) In any circumstance in which the best interests of a child must be determined, the following factors, to the extent they are present, must be considered but are not exhaustive:

- (a) the physical and emotional safety of the child;
 - (b) the temperament and developmental needs of the child;
 - (c) the capacity and the disposition of the parents to understand and meet the needs of the child;
 - (d) any relevant and material information obtained from the child, including the informed preferences of the child;
 - (e) the wishes of the child’s parents as to custody;
 - (f) the past and current interaction and relationship of the child with each parent, the child’s siblings, and any other person who may significantly affect the best interests of the child;
 - (g) the importance of family integrity, the emotional ties, and relationships between the child and the child’s parents, siblings, family, household members, or other caregivers;
 - (h) the willingness and ability of each parent to facilitate and encourage continuing parent-child relationship between the child and the other parent as is appropriate, including compliance with any court orders;
 - (i) any manipulation by or coercive behavior of the parents in an effort to involve the child in the parents’ dispute;
 - (j) the ability of each parent to be actively involved in the life of the child;
 - (k) the child’s adjustment to the child’s home, school, and community environments;
 - (l) the capacity of the parents to provide a stable home and adequate food, clothing, and medical care may not be based solely on the socioeconomic status of a parent;
 - (m) the mental and physical health of all individuals involved, except that a disability of a proposed custodial parent or other party, in and of itself, may not be determinative of custody unless the proposed custodial arrangement is not in the best interests of the child;
 - (n) the child’s cultural background;
 - (o) the effect on the child exposed to an offense identified in 45-5-202, 45-5-206, 45-5-213, or 45-5-215 against a partner or family member in the presence of the child by a predominant aggressor;
 - (p) whether the child or a sibling of the child has been abused or neglected, as defined in 41-3-102; and
 - (q) whether the party satisfactorily completes participation in a parenting education program established pursuant to a court directive.
- (2) A court is not required to assign any weight to any of the factors that it considers but shall articulate the basis for its decision.

Section 2. Codification instruction. [Section 1] is intended to be codified as a new part in Title 41, chapter 1, and the provisions of Title 41, chapter 1, apply to [section 1].

Approved May 8, 2025

CHAPTER NO. 580

[SB 471]

AN ACT GENERALLY REVISING VEHICULAR TRAFFIC LAWS RELATED TO PEDESTRIAN CROSSINGS; PROVIDING THE OFFENSE OF ENDANGERMENT OF PEDESTRIANS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING DEFINITIONS; AND AMENDING SECTION 61-8-502, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Endangerment of pedestrians – penalty – exception.

(1) Except as provided in subsection (2), a person convicted for violation of 61-8-502 shall be guilty of a misdemeanor and shall:

(a) for a first conviction, be punished by a fine of not less than \$25 or more than \$100;

(b) for a second conviction within 1 year after the first conviction, be punished by a fine of not less than \$50 or more than \$200; and

(c) for a third or subsequent conviction within 1 year after the first conviction, be punished by a fine of not less than \$100 or more than \$500.

(2) If the violation of 61-8-502 occurs in a pedestrian crossing when a pedestrian-actuated device is activated, the person convicted for violation of 61-8-502 shall be guilty of a misdemeanor and shall be punished by a fine of:

(a) not less than \$75 or more than \$149 for a first violation; or

(b) not less than \$150 or more than \$250 for a second or subsequent violation.

(3) If a vehicle damages a pedestrian-actuated device, the driver of the vehicle is liable to pay the replacement or repair cost of the pedestrian-actuated device.

(4) Failure to pay a fine imposed under this section is a civil contempt of the court. On failure of payment of a fine, the court may:

(a) order enforcement of the fine by execution in the manner provided in 25-13-204 and under the provisions of Title 25, chapter 13; or

(b) if the court finds that the person is unable to pay, order the person to perform community service.

(5) On conviction, the court costs or any part of the court costs may be assessed against the defendant in the discretion of the court.

(6) For the purposes of this section, the term “pedestrian-actuated device” has the same meaning as provided in 61-8-502.

Section 2. Section 61-8-502, MCA, is amended to read:

“61-8-502. Pedestrians’ right-of-way in crosswalk – school children – pedestrian-actuated devices. (1) (a) Except as provided in subsection (1)(b), when traffic control signals are not in place or not in operation, the operator of a vehicle shall yield the right-of-way, slowing down or stopping if necessary, to a pedestrian crossing the roadway within a marked crosswalk or within an unmarked crosswalk at an intersection, but a pedestrian may not suddenly leave a curb or other place of safety and walk or run into the path of a vehicle that is so close that it is impossible for the operator to yield. This provision does not apply under the conditions provided in 61-8-503(2).

(b) When a vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection, the operator of a vehicle may make a right-hand turn if the pedestrian is in the opposite half of the roadway and is not in danger.

(2) When a vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the

operator of any other vehicle approaching from the rear may not overtake and pass the stopped vehicle.

(3) A person may not operate a vehicle through a column of school children crossing a roadway or past a school crossing guard while the crossing guard is directing the movement of children across a roadway and while the crossing guard is holding an official sign in the stop position.

(4) (a) *When the operator of a vehicle is approaching a flashing pedestrian-actuated device at a crosswalk and a pedestrian is present, the operator shall yield the right-of-way, slowing down or stopping if necessary, and remain stopped until the pedestrian has crossed the roadway. The operator may proceed with caution after the pedestrian has completed crossing the roadway.*

(b) *If the vehicle reaches the intersection before the pedestrian-actuated device is engaged, or if the vehicle cannot safely stop before entering the intersection when the pedestrian-actuated device is engaged, then the vehicle may continue through the intersection at a safe speed.*

(5) *A person convicted of violating this section is guilty of the offense of endangerment of pedestrians and is subject to the penalties prescribed in [section 1].*

(6) *For the purposes of this section, the following definitions apply:*

(a) *“Pedestrian-actuated device” means a traffic-control device that, when activated by a pedestrian, begins a timed flashing light sequence to indicate the pedestrian’s presence in the crosswalk. The term includes but is not limited to:*

(i) rectangular rapid-flashing beacons;

(ii) warning beacons; or

(iii) in-roadway warning lights.

(b) *“Vehicle” has the same meaning as provided in 61-1-101.”*

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 61, chapter 8, part 7, and the provisions of Title 61, chapter 8, part 7, apply to [section 1].

Approved May 8, 2025

CHAPTER NO. 581

[SB 503]

AN ACT PROVIDING FOR THE USE OF EXPIRED OPIOID ANTAGONISTS; PROVIDING PARTIAL IMMUNITY TO SCHOOL EMPLOYEES, TO ELIGIBLE RECIPIENTS, AND TO MEDICAL PRACTITIONERS AND PHARMACISTS FOR USING EXPIRED OPIOID ANTAGONISTS; AND AMENDING SECTIONS 20-5-426, 50-32-602, 50-32-607, AND 50-32-608, MCA.

WHEREAS, it is the public policy of the state of Montana to encourage the administration and distribution of opioid antagonists, including expired opioid antagonists, to save the lives of persons who suffer opioid-related drug overdose events.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-5-426, MCA, is amended to read:

“20-5-426. Emergency use of opioid antagonist in school setting – limit on liability. (1) A school, whether public or nonpublic, may maintain a stock supply of an opioid antagonist to be administered by a school nurse or other authorized personnel to any student or nonstudent as needed for an actual or perceived opioid overdose. A school that intends to obtain an order for emergency use of an opioid antagonist in a school setting or at related activities shall adhere to the following requirements:

(a) A school that stocks an opioid antagonist shall develop a protocol related to the training of school employees, the maintenance and location of the opioid antagonist, and immediate and long-term followup to the administration of the medication, including making a 9-1-1 emergency call.

(b) The opioid antagonist must be prescribed by a physician, advanced practice registered nurse, or physician assistant. The school must be designated as the patient, and each prescription for an opioid antagonist must be filled by a licensed pharmacy.

(c) The school shall provide training to authorized personnel. The training must include causes of opioid overdose, recognition of signs and symptoms of opioid overdose, indications for the administration of an opioid antagonist, administration technique, and the need for immediate access to a certified emergency responder. Training must be provided by a school nurse, certified emergency responder, or other health care professional.

(d) The opioid antagonist must be kept in a secure and easily accessible location.

(e) A school nurse or other authorized personnel may, in good faith, administer the opioid antagonist to any student or nonstudent who is experiencing a potential life-threatening opioid overdose based on the protocol developed by the school.

(f) If a school stocks an opioid antagonist that has been prescribed to the school, that school shall inform parents or guardians about the potential use of the opioid antagonist in an opioid overdose emergency. The school shall make the protocol available upon request.

(g) A school district or nonpublic school and its employees and agents are not liable as a result of any injury arising from the administration of an opioid antagonist, *including an expired opioid antagonist*, to a student or nonstudent unless an act or omission is the result of gross negligence, willful or wanton misconduct, or an intentional tort.

(2) For the purposes of this section, “opioid antagonist” means a drug that binds to opioid receptors and blocks or inhibits the effect of opioids acting on those receptors, including but not limited to naloxone hydrochloride or any other similarly acting drug approved by the United States food and drug administration.”

Section 2. Section 50-32-602, MCA, is amended to read:

“50-32-602. Purpose. The purposes of this part are to:

(1) save the lives of persons who have experienced an opioid-related drug overdose by providing the broadest possible access to lifesaving opioid antagonist medication, *including expired opioid antagonist medication*;

(2) facilitate the availability and use of opioid antagonist medication by providing professional, civil, and criminal immunity to persons who prescribe, dispense, distribute, or administer an opioid antagonist; and

(3) encourage persons to seek medical treatment in an opioid-related drug overdose situation by providing immunity from prosecution for certain criminal offenses for persons who seek or receive the medical treatment.”

Section 3. Section 50-32-607, MCA, is amended to read:

“50-32-607. Authorization for possession and administration of opioid antagonist – reporting – immunity related to expired opioid antagonist. (1) An eligible recipient to whom an opioid antagonist is prescribed, dispensed, or distributed pursuant to 50-32-604 through 50-32-606 and who has received the instruction and information provided for in 50-32-606 may do any of the following:

(a) possess and store the opioid antagonist. The storage of an opioid antagonist is not subject to pharmacy practice laws or other requirements that apply to the storage of drugs or medications.

(b) in good faith, administer or direct another person to administer the opioid antagonist to a person who is experiencing an actual or reasonably perceived opioid-related drug overdose; or

(c) distribute the opioid antagonist to a person who is an eligible recipient under 50-32-603(5)(a) or (5)(b); and

(d) *possess, store, administer, direct another person to administer, or distribute an expired opioid antagonist.*

(2) An eligible recipient to whom an opioid antagonist is dispensed pursuant to 50-32-604 through 50-32-606 shall report, if required by the department, information regarding the dispensing, distribution, and administration of the opioid antagonist.

(3) *A person who engages in the activities authorized in subsection (1) is not liable for injury or damages caused by possessing, storing, administering, or directing another person to administer, or distributing an expired opioid antagonist, except for injury or damages arising from gross negligence, willful or wanton misconduct, or an intentional tort.*

Section 4. Section 50-32-608, MCA, is amended to read:

“50-32-608. Professional conduct – immunity. (1) A prescription issued pursuant to 50-32-604 or 50-32-605 is considered to have been issued for a legitimate medical purpose in the usual course of a professional practice.

(2) Except for injury or damages arising from gross negligence, willful or wanton misconduct, or an intentional tort:

(a) a medical practitioner or licensed pharmacist may not be subject to disciplinary action or civil or criminal liability for injury resulting from the prescribing or dispensing of an opioid antagonist, *including an expired opioid antagonist*, pursuant to 50-32-604 through 50-32-606 to an eligible recipient; and

(b) an eligible recipient may not be subject to disciplinary action or civil or criminal liability for injury resulting from distributing an opioid antagonist pursuant to 50-32-606 and 50-32-607.

(3) A medical practitioner, eligible recipient, emergency care provider, or other person is not liable and may not be subject to disciplinary action as a result of any injury arising from the administration of an opioid antagonist, *including an expired opioid antagonist*, to another person whom the medical practitioner, eligible recipient, emergency care provider, or other person believes in good faith to be suffering from an opioid-related drug overdose, unless the injury arises from an act or omission that is the result of gross negligence, willful or wanton misconduct, or an intentional tort.

(4) The provisions of 50-32-601 through 50-32-607 do not establish a duty or standard of care with respect to the decision of whether to prescribe, dispense, distribute, or administer an opioid antagonist.”

Approved May 8, 2025

CHAPTER NO. 582

[SB 544]

AN ACT REVISING INDIVIDUAL INCOME TAX LAWS TO PROVIDE FOR A TRANSITION ADJUSTMENT FOR CERTAIN LOSSES; ALLOWING A TAXPAYER ELECTION TO CLAIM LOSSES THAT WERE NOT PROVIDED

FOR IN 2021 INCOME TAX SIMPLIFICATION LEGISLATION; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Transition – net operating loss and net operating loss carryover – Senate Bill No. 399 (2021) adjustments – rulemaking.

(1) Subject to the provisions of this section, a taxpayer may elect to make a transition adjustment for a Montana net operating loss carryover under section 172(a) of the Internal Revenue Code. The adjustment is the sum of all positive and negative adjustments to a taxpayer's Montana taxable income resulting from a difference in federal and Montana income tax from before January 1, 2024.

(2) If the federal carryover was not the same as the Montana carryover on December 31, 2023:

(a) the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana carryover was smaller than the federal carryover; and

(b) the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana carryover was larger than the federal carryover.

(3) Notwithstanding section 67(3)(d), Chapter 503, Laws of 2021, the election provided for in this section must be made on a tax year 2024 income tax return that is filed on or before October 15, 2025, and must include a completed carryforward adjustment form that the department of revenue publishes. A taxpayer may file an amended 2024 income tax return to make this election as long as that amended return and the accompanying carryforward adjustment form are filed on or before October 15, 2025. A taxpayer that makes the election must apply the entire carryforward or carryback toward tax year 2024 as a carryforward adjustment until Montana taxable income is \$0, and then toward each subsequent year until Montana taxable income is \$0 for each subsequent year, not to exceed 7 years. The election does not impact the calculation of a new net operating loss carryover or carryback for tax years after December 31, 2023. The carryforward adjustment for the net operating loss carryforward must be used after any net operating losses that accrue after December 31, 2023.

(4) If a taxpayer does not make the election provided for in this section on or before October 15, 2025, then the taxpayer may not make the carryforward adjustment election, and section 67(3)(d), Chapter 503, Laws of 2021, applies. The department is not permitted to grant extensions to the October 15, 2025, deadline.

(5) The department may prescribe forms requiring information it believes is necessary to administer the adjustment and may adopt rules to implement the transition adjustment provided by this section.

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to income tax years beginning after December 31, 2023.

Approved May 8, 2025

CHAPTER NO. 583

[SB 19]

AN ACT GENERALLY REVISING SENTENCING LAWS FOR THEFT, FAILURE TO RETURN RENTED OR LEASED PERSONAL PROPERTY, ISSUING A BAD CHECK, DECEPTIVE PRACTICES, FORGERY, AND THEFT OF IDENTITY; REVISING THE DEFINITION OF COMMON SCHEME; RAISING THE PENALTY THRESHOLDS FOR OFFENSES INVOLVING THEFT, FAILURE TO RETURN RENTED OR LEASED PERSONAL PROPERTY, ISSUING A BAD CHECK, DECEPTIVE PRACTICES, FORGERY, AND THEFT OF IDENTITY; AMENDING SECTIONS 45-2-101, 45-6-301, 45-6-309, 45-6-316, 45-6-317, 45-6-325, 45-6-332, AND 45-6-345, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 45-2-101, MCA, is amended to read:

“45-2-101. General definitions. Unless otherwise specified in the statute, all words must be taken in the objective standard rather than in the subjective, and unless a different meaning plainly is required, the following definitions apply in this title:

(1) “Acts” has its usual and ordinary meaning and includes any bodily movement, any form of communication, and when relevant, a failure or omission to take action.

(2) “Administrative proceeding” means a proceeding the outcome of which is required to be based on a record or documentation prescribed by law or in which a law or a regulation is particularized in its application to an individual.

(3) “Another” means a person or persons other than the offender.

(4) (a) “Benefit” means gain or advantage or anything regarded by the beneficiary as gain or advantage, including benefit to another person or entity in whose welfare the beneficiary is interested.

(b) Benefit does not include an advantage promised generally to a group or class of voters as a consequence of public measures that a candidate engages to support or oppose.

(5) “Bodily injury” means physical pain, illness, or an impairment of physical condition and includes mental illness or impairment.

(6) “Child” or “children” means any individual or individuals under 18 years of age, unless a different age is specified.

(7) “Cohabit” means to live together under the representation of being married.

(8) “Common scheme” means a series of acts or omissions ~~resulting in a pecuniary loss to the victim of at least \$1,500, or \$1,500 in value,~~ motivated by a purpose to accomplish a single criminal objective or by a common purpose or plan that results in the repeated commission of the same offense or that affects the same person or the same persons or the property of the same person or persons.

(9) “Computer” means an electronic device that performs logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses and includes all input, output, processing, storage, software, or communication facilities that are connected or related to that device in a system or network.

(10) “Computer network” means the interconnection of communication systems between computers or computers and remote terminals.

(11) “Computer program” means an instruction or statement or a series of instructions or statements, in a form acceptable to a computer, that in actual

or modified form permits the functioning of a computer or computer system and causes it to perform specified functions.

(12) "Computer services" include but are not limited to computer time, data processing, and storage functions.

(13) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with the operation of a computer system.

(14) "Computer system" means a set of related, connected, or unconnected devices, computer software, or other related computer equipment.

(15) "Conduct" means an act or series of acts and the accompanying mental state.

(16) "Conviction" means a judgment of conviction and sentence entered upon a plea of guilty or nolo contendere or upon a verdict or finding of guilty of an offense rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury.

(17) "Correctional institution" means a state prison, detention center, multijurisdictional detention center, private detention center, regional correctional facility, private correctional facility, or other institution for the incarceration of inmates under sentence for offenses or the custody of individuals awaiting trial or sentence for offenses.

(18) "Deception" means knowingly to:

(a) create or confirm in another an impression that is false and that the offender does not believe to be true;

(b) fail to correct a false impression that the offender previously has created or confirmed;

(c) prevent another from acquiring information pertinent to the disposition of the property involved;

(d) sell or otherwise transfer or encumber property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether the impediment is or is not of value or is or is not a matter of official record; or

(e) promise performance that the offender does not intend to perform or knows will not be performed. Failure to perform, standing alone, is not evidence that the offender did not intend to perform.

(19) "Defamatory matter" means anything that exposes a person or a group, class, or association to hatred, contempt, ridicule, degradation, or disgrace in society or to injury to the person's or its business or occupation.

(20) "Deprive" means:

(a) to withhold property of another:

(i) permanently;

(ii) for such a period as to appropriate a portion of its value; or

(iii) with the purpose to restore it only upon payment of reward or other compensation; or

(b) to dispose of the property of another and use or deal with the property so as to make it unlikely that the owner will recover it.

(21) "Deviate sexual relations" means any form of sexual intercourse with an animal or dead human body.

(22) "Document" means, with respect to offenses involving the medicaid program, any application, claim, form, report, record, writing, or correspondence, whether in written, electronic, magnetic, microfilm, or other form.

(23) "Felony" means an offense in which the sentence imposed upon conviction is death or imprisonment in a state prison for a term exceeding 1 year.

(24) “Forcible felony” means a felony that involves the use or threat of physical force or violence against any individual.

(25) A “frisk” is a search by an external patting of a person’s clothing.

(26) “Government” includes a branch, subdivision, or agency of the government of the state or a locality within it.

(27) “Harm” means loss, disadvantage, or injury or anything so regarded by the person affected, including loss, disadvantage, or injury to a person or entity in whose welfare the affected person is interested.

(28) A “house of prostitution” means a place where prostitution or promotion of prostitution is regularly carried on by one or more persons under the control, management, or supervision of another.

(29) “Human being” means a person who has been born and is alive.

(30) An “illegal article” is an article or thing that is prohibited by statute, rule, or order from being in the possession of a person subject to official detention.

(31) “Inmate” means a person who is confined in a correctional institution.

(32) (a) “Intoxicating substance” means a controlled substance, as defined in Title 50, chapter 32, and an alcoholic beverage, including but not limited to a beverage containing 1/2 of 1% or more of alcohol by volume.

(b) Intoxicating substance does not include dealcoholized wine or a beverage or liquid produced by the process by which beer, ale, port, or wine is produced if it contains less than 1/2 of 1% of alcohol by volume.

(33) An “involuntary act” means an act that is:

(a) a reflex or convulsion;

(b) a bodily movement during unconsciousness or sleep;

(c) conduct during hypnosis or resulting from hypnotic suggestion; or

(d) a bodily movement that otherwise is not a product of the effort or determination of the actor, either conscious or habitual.

(34) “Juror” means a person who is a member of a jury, including a grand jury, impaneled by a court in this state in an action or proceeding or by an officer authorized by law to impanel a jury in an action or proceeding. The term “juror” also includes a person who has been drawn or summoned to attend as a prospective juror.

(35) “Knowingly”--a person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when the person is aware of the person’s own conduct or that the circumstance exists. A person acts knowingly with respect to the result of conduct described by a statute defining an offense when the person is aware that it is highly probable that the result will be caused by the person’s conduct. When knowledge of the existence of a particular fact is an element of an offense, knowledge is established if a person is aware of a high probability of its existence. Equivalent terms, such as “knowing” or “with knowledge”, have the same meaning.

(36) “Medicaid” means the Montana medical assistance program provided for in Title 53, chapter 6.

(37) “Medicaid agency” has the meaning in 53-6-155.

(38) “Medicaid benefit” means the provision of anything of pecuniary value to or on behalf of a recipient under the medicaid program.

(39) (a) “Medicaid claim” means a communication, whether in oral, written, electronic, magnetic, or other form:

(i) that is used to claim specific services or items as payable or reimbursable under the medicaid program; or

(ii) that states income, expense, or other information that is or may be used to determine entitlement to or the rate of payment under the medicaid program.

(b) The term includes related documents submitted as a part of or in support of the claim.

(40) “Mentally disordered” means that a person suffers from a mental disease or disorder that renders the person incapable of appreciating the nature of the person’s own conduct.

(41) “Mentally incapacitated” means that a person is rendered temporarily incapable of appreciating or controlling the person’s own conduct as a result of the influence of an intoxicating substance.

(42) “Misdemeanor” means an offense for which the sentence imposed upon conviction is imprisonment in the county jail for a term or a fine, or both, or for which the sentence imposed is imprisonment in a state prison for a term of 1 year or less.

(43) “Negligently”--a person acts negligently with respect to a result or to a circumstance described by a statute defining an offense when the person consciously disregards a risk that the result will occur or that the circumstance exists or when the person disregards a risk of which the person should be aware that the result will occur or that the circumstance exists. The risk must be of a nature and degree that to disregard it involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor’s situation. “Gross deviation” means a deviation that is considerably greater than lack of ordinary care. Relevant terms, such as “negligent” and “with negligence”, have the same meaning.

(44) “Nolo contendere” means a plea in which the defendant does not contest the charge or charges against the defendant and neither admits nor denies the charge or charges.

(45) “Obtain” means:

(a) in relation to property, to bring about a transfer of interest or possession, whether to the offender or to another; and

(b) in relation to labor or services, to secure the performance of the labor or service.

(46) “Obtains or exerts control” includes but is not limited to the taking, the carrying away, or the sale, conveyance, or transfer of title to, interest in, or possession of property.

(47) “Occupied structure” means any building, vehicle, or other place suitable for human occupancy or night lodging of persons or for carrying on business, whether or not a person is actually present, including any outbuilding that is immediately adjacent to or in close proximity to an occupied structure and that is habitually used for personal use or employment. Each unit of a building consisting of two or more units separately secured or occupied is a separate occupied structure.

(48) “Offender” means a person who has been or is liable to be arrested, charged, convicted, or punished for a public offense.

(49) “Offense” means a crime for which a sentence of death or of imprisonment or a fine is authorized. Offenses are classified as felonies or misdemeanors.

(50) (a) “Official detention” means imprisonment resulting from a conviction for an offense, confinement for an offense, confinement of a person charged with an offense, detention by a peace officer pursuant to arrest, detention for extradition or deportation, or lawful detention for the purpose of the protection of the welfare of the person detained or for the protection of society.

(b) Official detention does not include supervision of probation or parole, constraint incidental to release on bail, or an unlawful arrest unless the person arrested employed physical force, a threat of physical force, or a weapon to escape.

(51) “Official proceeding” means a proceeding heard or that may be heard before a legislative, a judicial, an administrative, or another governmental agency or official authorized to take evidence under oath, including any referee, hearings examiner, commissioner, notary, or other person taking testimony or deposition in connection with the proceeding.

(52) “Other state” means a state or territory of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(53) “Owner” means a person other than the offender who has possession of or other interest in the property involved, even though the interest or possession is unlawful, and without whose consent the offender has no authority to exert control over the property.

(54) “Party official” means a person who holds an elective or appointive post in a political party in the United States by virtue of which the person directs or conducts or participates in directing or conducting party affairs at any level of responsibility.

(55) “Peace officer” means a person who by virtue of the person’s office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses while acting within the scope of the person’s authority.

(56) “Pecuniary benefit” is benefit in the form of money, property, commercial interests, or anything else the primary significance of which is economic gain.

(57) “Person” includes an individual, business association, partnership, corporation, government, or other legal entity and an individual acting or purporting to act for or on behalf of a government or subdivision of government.

(58) “Physically helpless” means that a person is unconscious or is otherwise physically unable to communicate unwillingness to act.

(59) “Possession” is the knowing control of anything for a sufficient time to be able to terminate control.

(60) “Premises” includes any type of structure or building and real property.

(61) “Property” means a tangible or intangible thing of value. Property includes but is not limited to:

- (a) real estate;
- (b) money;
- (c) commercial instruments;
- (d) admission or transportation tickets;
- (e) written instruments that represent or embody rights concerning anything of value, including labor or services, or that are otherwise of value to the owner;
- (f) things growing on, affixed to, or found on land and things that are part of or affixed to a building;
- (g) electricity, gas, and water;
- (h) birds, animals, and fish that ordinarily are kept in a state of confinement;
- (i) food and drink, samples, cultures, microorganisms, specimens, records, recordings, documents, blueprints, drawings, maps, and whole or partial copies, descriptions, photographs, prototypes, or models thereof;
- (j) other articles, materials, devices, substances, and whole or partial copies, descriptions, photographs, prototypes, or models thereof that constitute, represent, evidence, reflect, or record secret scientific, technical, merchandising, production, or management information or a secret designed process, procedure, formula, invention, or improvement; and
- (k) electronic impulses, electronically processed or produced data or information, commercial instruments, computer software or computer programs, in either machine- or human-readable form, computer services, any

other tangible or intangible item of value relating to a computer, computer system, or computer network, and copies thereof.

(62) “Property of another” means real or personal property in which a person other than the offender has an interest that the offender has no authority to defeat or impair, even though the offender may have an interest in the property.

(63) “Public place” means a place to which the public or a substantial group has access.

(64) (a) “Public servant” means an officer or employee of government, including but not limited to legislators, judges, and firefighters, and a person participating as a juror, adviser, consultant, administrator, executor, guardian, or court-appointed fiduciary. The term “public servant” includes one who has been elected or designated to become a public servant.

(b) The term does not include witnesses.

(65) “Purposely”--a person acts purposely with respect to a result or to conduct described by a statute defining an offense if it is the person’s conscious object to engage in that conduct or to cause that result. When a particular purpose is an element of an offense, the element is established although the purpose is conditional, unless the condition negatives the harm or evil sought to be prevented by the law defining the offense. Equivalent terms, such as “purpose” and “with the purpose”, have the same meaning.

(66) (a) “Serious bodily injury” means bodily injury that:

(i) creates a substantial risk of death;

(ii) causes serious permanent disfigurement or protracted loss or impairment of the function or process of a bodily member or organ; or

(iii) at the time of injury, can reasonably be expected to result in serious permanent disfigurement or protracted loss or impairment of the function or process of a bodily member or organ.

(b) The term includes serious mental illness or impairment.

(67) “Sexual contact” means touching of the sexual or other intimate parts of the person of another, directly or through clothing, in order to knowingly or purposely:

(a) cause bodily injury to or humiliate, harass, or degrade another; or

(b) arouse or gratify the sexual response or desire of either party.

(68) (a) “Sexual intercourse” means penetration of the vulva, anus, or mouth of one person by the penis of another person, penetration of the vulva or anus of one person by a body member of another person, or penetration of the vulva or anus of one person by a foreign instrument or object manipulated by another person to knowingly or purposely:

(i) cause bodily injury or humiliate, harass, or degrade; or

(ii) arouse or gratify the sexual response or desire of either party.

(b) For purposes of subsection (68)(a), any penetration, however slight, is sufficient.

(69) “Solicit” or “solicitation” means to command, authorize, urge, incite, request, or advise another to commit an offense.

(70) “State” or “this state” means the state of Montana, all the land and water in respect to which the state of Montana has either exclusive or concurrent jurisdiction, and the air space above the land and water.

(71) “Statute” means an act of the legislature of this state.

(72) “Stolen property” means property over which control has been obtained by theft.

(73) A “stop” is the temporary detention of a person that results when a peace officer orders the person to remain in the peace officer’s presence.

(74) “Tamper” means to interfere with something improperly, meddle with it, make unwarranted alterations in its existing condition, or deposit refuse upon it.

(75) “Telephone” means any type of telephone, including but not limited to a corded, uncorded, cellular, or satellite telephone.

(76) “Threat” means a menace, however communicated, to:

(a) inflict physical harm on the person threatened or any other person or on property;

(b) subject any person to physical confinement or restraint;

(c) commit a criminal offense;

(d) accuse a person of a criminal offense;

(e) expose a person to hatred, contempt, or ridicule;

(f) harm the credit or business repute of a person;

(g) reveal information sought to be concealed by the person threatened;

(h) take action as an official against anyone or anything, withhold official action, or cause the action or withholding;

(i) bring about or continue a strike, boycott, or other similar collective action if the person making the threat demands or receives property that is not for the benefit of groups that the person purports to represent; or

(j) testify or provide information or withhold testimony or information with respect to another’s legal claim or defense.

(77) (a) “Value” means the market value of the property at the time and place of the crime or, if the market value cannot be satisfactorily ascertained, the cost of the replacement of the property within a reasonable time after the crime. If the offender appropriates a portion of the value of the property, the value must be determined as follows:

(i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, is considered the amount due or collectible. The figure is ordinarily the face amount of the indebtedness less any portion of the indebtedness that has been satisfied.

(ii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation is considered the amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(iii) The value of electronic impulses, electronically produced data or information, computer software or programs, or any other tangible or intangible item relating to a computer, computer system, or computer network is considered to be the amount of economic loss that the owner of the item might reasonably suffer by virtue of the loss of the item. The determination of the amount of economic loss includes but is not limited to consideration of the value of the owner’s right to exclusive use or disposition of the item.

(b) When it cannot be determined if the value of the property is more or less than \$1,500 by the standards set forth in subsection (77)(a), its value is considered to be an amount less than \$1,500.

(c) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the property.

(78) “Vehicle” means a device for transportation by land, water, or air or by mobile equipment, with provision for transport of an operator.

(79) “Weapon” means an instrument, article, or substance that, regardless of its primary function, is readily capable of being used to produce death or serious bodily injury.

(80) "Witness" means a person whose testimony is desired in an official proceeding, in any investigation by a grand jury, or in a criminal action, prosecution, or proceeding."

Section 2. Section 45-6-301, MCA, is amended to read:

"45-6-301. Theft. (1) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(2) A person commits the offense of theft when the person purposely or knowingly obtains by threat or deception control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(3) A person commits the offense of theft when the person purposely or knowingly obtains control over stolen property knowing the property to have been stolen by another and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(4) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over any part of any public assistance provided under Title 52 or 53 by a state or county agency, regardless of the original source of assistance, by means of:

(a) a knowingly false statement, representation, or impersonation; or

(b) a fraudulent scheme or device.

(5) A person commits the offense of theft when the person purposely or knowingly obtains or exerts or helps another obtain or exert unauthorized control over any part of any benefits provided under Title 39, chapter 51 or 71, by means of:

(a) a knowingly false statement, representation, or impersonation; or

(b) deception or other fraudulent action.

(6) A person commits the offense of theft of property by embezzlement when, with the purpose to deprive the owner of the property, the person:

(a) purposely or knowingly obtains or exerts unauthorized control over property of the person's employer or over property entrusted to the person; or

(b) purposely or knowingly obtains by deception control over property of the person's employer or over property entrusted to the person.

(7) (a) Except as provided in subsections (7)(b); and (7)(d), and ~~(7)(e)~~; a person convicted of a first or second offense of the offense of theft of property not exceeding \$1,500 in value shall be fined an amount not to exceed ~~\$500: \$1,500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.~~ A person convicted of a second offense shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be

fined an amount not to exceed ~~\$500~~ *\$1,500* and be imprisoned in the county jail for a term of not less than ~~5~~ *30* days or more than ~~1 year~~ *6 months*.

(b) (i) Except as provided in subsections (7)(c) and ~~(7)(e); (7)(d)~~, a person convicted of the offense of theft of property that exceeds \$1,500 in value ~~and does not exceed \$5,000 in value shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 3 years, or both.~~ A person convicted of a second offense shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 5 years, or both. A person convicted of a third or subsequent offense shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined an amount not to exceed \$5,000.

(ii) A person convicted of the theft of property exceeding \$5,000 in value or as part of a common scheme as defined in 45-2-101, or the theft of any amount of anhydrous ammonia for the purpose of manufacturing dangerous drugs, shall be fined an amount not to exceed ~~\$10,000~~ *\$50,000* or be imprisoned in a state prison for a term not to exceed 10 years, or both.

(iii)(ii) A person convicted of the theft of any commonly domesticated hoofed animal shall be fined an amount of not less than \$5,000 or more than \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both. If a prison term is deferred, the court shall order the offender to perform 416 hours of community service during a 1-year period, in the offender's county of residence. In addition to the fine and imprisonment, the offender's property is subject to criminal forfeiture pursuant to 45-6-328 and 45-6-329.

(c) A person convicted of the offense of theft of property exceeding \$10,000 in value by embezzlement shall be imprisoned in a state prison for a term of not less than 1 year or more than 10 years and may be fined an amount not to exceed \$50,000. The court may, in its discretion, place the person on probation with the requirement that restitution be made under terms set by the court. If the terms are not met, the required prison term may be ordered.

(d) A person convicted of a first offense for the offense of theft of property not exceeding \$1,500 in value and who utilized an emergency exit in furtherance of that offense shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. On a second conviction, the offender shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. On a third conviction, the offender shall be fined an amount not to exceed \$5,000 and be imprisoned in the county jail for a term of not less than 5 days or more than 1 year.

(e)(d) A person convicted of the offense of theft of property of a light vehicle, as defined in 61-1-101, shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

(8) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the property.

(9) A person convicted of the offense of theft of property not exceeding \$100 in value is presumed to qualify for a deferred imposition of sentence as long as the person has not been convicted of a misdemeanor or felony offense in the past 5 years."

Section 3. Section 45-6-309, MCA, is amended to read:

"45-6-309. Failure to return rented or leased personal property.

(1) A person commits the offense of failure to return rented or leased personal property if, without notice to and permission of the lessor, the person purposely and knowingly fails to return the property within 48 hours after the time provided for return in the rental agreement, provided that clear written notice, in bold print, of the date and time when return of the property is required

and of the penalty prescribed in this section is stated in the rental or lease agreement.

(2) Presentation to the lessor by the lessee of identification that is false for the purpose of obtaining a rental or lease agreement constitutes prima facie evidence of commission of the offense.

(3) After the rental or lease period specified in the rental or lease agreement has expired, failure to return rented or leased personal property within 72 hours of written demand by the lessor, sent by certified or registered mail to the renter or lessee at the address given at the time of entering the rental or lease agreement, constitutes prima facie evidence of commission of the offense.

(4) (a) A person convicted of failure to return rented or leased personal property not exceeding \$1,500 in value shall be fined an amount not to exceed \$1,500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) A person convicted of failure to return rented or leased personal property that exceeds \$1,500 in value ~~and does not exceed \$5,000 in value shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 3 10 years, or both. A person convicted of a second offense shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 5 years, or both. A person convicted of a third or subsequent offense shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined an amount not to exceed \$5,000.~~

(c) A person convicted of failure to return ~~rental rented~~ or leased personal property exceeding \$5,000 in value or part of a common scheme shall be fined an amount not to exceed \$10,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.”

Section 4. Section 45-6-316, MCA, is amended to read:

“45-6-316. Issuing a bad check. (1) A person commits the offense of issuing a bad check when the person issues or delivers a check or other order upon a real or fictitious depository for the payment of money knowing that it will not be paid by the depository.

(2) If the offender has an account with the depository, failure to make good the check or other order within 5 days after written notice of nonpayment has been received by the issuer is prima facie evidence that the offender knew that it would not be paid by the depository.

(3) ~~(a) A person convicted of issuing a bad check not exceeding \$500 in value shall be fined an amount not to exceed \$500. A person convicted of a second offense shall be fined an amount not to exceed \$500 \$1,500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be imprisoned in the county jail for a term of not less than 5 days or more than 1 year and may be fined an amount not to exceed \$500. If the offender has engaged in issuing bad checks that are part of a common scheme or if the value of any property, labor, or services obtained or attempted to be obtained exceeds \$1,500, the offender shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.~~

~~(b) A person convicted of issuing a bad check that exceeds \$500 in value and does not exceed \$5,000 in value shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 3 years, or both. A person convicted of a second offense shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 5 years, or both. A person convicted of a third or subsequent offense shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined an amount not to exceed \$5,000.~~

(c) A person convicted of issuing a bad check exceeding \$5,000 in value or as part of a common scheme shall be fined an amount not to exceed \$10,000 or be imprisoned in the state prison for a term not to exceed 10 years."

Section 5. Section 45-6-317, MCA, is amended to read:

"45-6-317. Deceptive practices. (1) A person commits the offense of deceptive practices when the person purposely or knowingly:

(a) causes another, by deception or threat, to execute a document disposing of property or a document by which a pecuniary obligation is incurred;

(b) makes or directs another to make a false or deceptive statement addressed to the public or any person for the purpose of promoting or procuring the sale of property or services;

(c) makes or directs another to make a false or deceptive statement to any person respecting the financial condition of the person making or directing another to make the statement for the purpose of procuring a loan or credit or accepts a false or deceptive statement from any person who is attempting to procure a loan or credit regarding that person's financial condition; or

(d) obtains or attempts to obtain property, labor, or services by any of the following means:

(i) using a credit card that was issued to another without the other's consent;

(ii) using a credit card that has been revoked or canceled;

(iii) using a credit card that has been falsely made, counterfeited, or altered in any material respect;

(iv) using the pretended number or description of a fictitious credit card; or

(v) using a credit card that has expired when the credit card clearly indicates the expiration date.

(2) (a) A person convicted of the offense of deceptive practices ~~if the value of any property, labor, or services obtained or attempted to be obtained does not exceed \$1,500 in value~~ shall be fined an amount not to exceed \$500 ~~\$1,500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. If the deceptive practices are part of a common scheme or the value of any property, labor, or services obtained or attempted to be obtained exceeds \$1,500, the offender shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both. A person convicted of a second offense shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be imprisoned in the county jail for a term of not less than 5 days or more than 1 year and may be fined an amount not to exceed \$500.~~

~~(b) A person convicted of the offense of deceptive practices if the value of any property, labor, or services obtained or attempted to be obtained exceeds \$1,500 in value and does not exceed \$5,000 in value shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 3 years, or both. A person convicted of a second offense shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 5 years, or both. A person convicted of a third or subsequent offense shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined an amount not to exceed \$5,000.~~

~~(c) A person convicted of the offense of deceptive practices if the value of any property, labor, or services obtained or attempted to be obtained exceeds \$5,000 in value or as part of a common scheme shall be fined an amount not to exceed \$10,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both."~~

Section 6. Section 45-6-325, MCA, is amended to read:

“45-6-325. Forgery. (1) A person commits the offense of forgery when with purpose to defraud the person knowingly:

(a) without authority makes or alters a document or other object apparently capable of being used to defraud another in a manner that it purports to have been made by another or at another time or with different provisions or of different composition;

(b) issues or delivers the document or other object knowing it to have been thus made or altered;

(c) possesses with the purpose of issuing or delivering any such document or other object knowing it to have been thus made or altered; or

(d) possesses with knowledge of its character any plate, die, or other device, apparatus, equipment, or article specifically designed for use in counterfeiting or otherwise forging written instruments.

(2) A purpose to defraud means the purpose of causing another to assume, create, transfer, alter, or terminate any right, obligation, or power with reference to any person or property.

(3) A document or other object capable of being used to defraud another includes but is not limited to one by which any right, obligation, or power with reference to any person or property may be created, transferred, altered, or terminated.

(4) ~~(a) A person convicted of the offense of forgery if the value of the property, labor, or services obtained or attempted to be obtained does not exceed \$1,500 shall be fined an amount not to exceed \$500 \$1,500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. If the forgery is part of a common scheme or if the value of the property, labor, or services obtained or attempted to be obtained exceeds \$1,500, the offender shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 20 years, or both. A person convicted of a second offense shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be fined an amount not to exceed \$500 and be imprisoned in the county jail for a term of not less than 5 days or more than 1 year.~~

~~(b) A person convicted of the offense of forgery for which the value of the property, labor, or services obtained or attempted to be obtained exceeds \$1,500 and does not exceed \$5,000 in value shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 3 years, or both. A person convicted of a second offense shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 5 years, or both. A person convicted of a third or subsequent offense shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined an amount not to exceed \$5,000.~~

~~(c) A person convicted of the offense of forgery for which the value of the property, labor, or services obtained or attempted to be obtained exceeds \$5,000 in value or is part of a common scheme shall be fined an amount not to exceed \$10,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.”~~

Section 7. Section 45-6-332, MCA, is amended to read:

“45-6-332. Theft of identity. (1) A person commits the offense of theft of identity if the person purposely or knowingly obtains personal identifying information of another person and uses that information for any unlawful purpose, including to obtain or attempt to obtain credit, goods, services, financial information, or medical information in the name of the other person without the consent of the other person.

(2) (a) A person convicted of the offense of theft of identity if no economic benefit was gained or was attempted to be gained or if an economic benefit of less than \$1,500 was gained or was attempted to be gained shall be fined an amount not to exceed ~~\$500~~; *\$1,500, imprisoned in the county jail for a term not to exceed 6 months, or both.* If the victim is a minor, the offender shall be fined an amount not to exceed \$3,000 ~~or~~, be imprisoned in the county jail for a term not to exceed 1 year, or both. ~~A person convicted of a second offense shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be fined an amount not to exceed \$500 and be imprisoned in the county jail for a term of not less than 5 days or more than 1 year.~~

(b) A person convicted of the offense of theft of identity if an economic benefit ~~that exceeds of \$1,500 or more and does not exceed \$5,000~~ was gained or was attempted to be gained shall be fined an amount not to exceed ~~\$5,000 or \$10,000~~, be imprisoned in the state prison for a term not to exceed 10 years, or both. If the victim is a minor, the offender shall be fined an amount not to exceed \$20,000, ~~or be imprisoned in the state prison for a term not to exceed 20 years, or both. A person convicted of a second offense shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 5 years, or both. A person convicted of a third or subsequent offense shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined an amount not to exceed \$5,000.~~

(c) ~~A person convicted of theft of identity if an economic benefit exceeding \$5,000 in value was gained or attempted to be gained shall be fined an amount not to exceed \$10,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.~~

(3) As used in this section, “personal identifying information” includes but is not limited to the name, date of birth, address, telephone number, driver’s license number, social security number or other federal government identification number, tribal identification card number, place of employment, employee identification number, mother’s maiden name, financial institution account number, credit card number, or similar identifying information relating to a person.

(4) If restitution is ordered, the court may include, as part of its determination of an amount owed, payment for any costs incurred by the victim, including attorney fees and any costs incurred in clearing the credit history or credit rating of the victim or in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising as a result of the actions of the defendant.”

Section 8. Section 45-6-345, MCA, is amended to read:

“45-6-345. Determination of number of convictions. For the purpose of determining the number of convictions under 45-6-301, 45-6-309, 45-6-316, 45-6-317, 45-6-325, ~~or 45-6-332~~, a conviction means:

- (1) a conviction, as defined in 45-2-101, under the same statute;
- (2) a conviction for a violation of a similar statute in another state; or
- (3) a forfeiture of bail or collateral deposited to secure the defendant’s appearance in court in this state or another state for a violation of a similar statute, which forfeiture has not been vacated.”

Section 9. Coordination instruction. If both House Bill No. 532 and [this act] are passed and approved and if both contain a section that amends 45-6-332, then the sections amending 45-6-332 must be replaced with:

“45-6-332. Theft of identity. (1) A person commits the offense of theft of identity if the person purposely or knowingly obtains personal identifying

information of another person and uses that information for any unlawful purpose, including to obtain or attempt to obtain credit, goods, services, financial information, or medical information in the name of the other person without the consent of the other person.

(2) (a) (i) A person convicted of the offense of theft of identity if no economic benefit was gained or was attempted to be gained or if an economic benefit of less than \$1,500 was gained or was attempted to be gained shall be fined an amount not to exceed ~~\$500~~ *\$1,500, imprisoned in the county jail for a term not to exceed 6 months, or both.* If the victim is a minor, the offender shall be fined an amount not to exceed \$3,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second offense shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be fined an amount not to exceed \$500 and be imprisoned in the county jail for a term of not less than 5 days or more than 1 year.

(ii) *If the victim is a minor, incapacitated person, or vulnerable adult, the offender shall be fined in an amount not to exceed \$3,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.*

(b) (i) A person convicted of the offense of theft of identity if an economic benefit ~~that exceeds of \$1,500 and does not exceed \$5,000 or more~~ was gained or was attempted to be gained shall be fined an amount not to exceed ~~\$5,000~~ *\$10,000*, or be imprisoned in the state prison for a term not to exceed 10 years, or both. If the victim is a minor, the offender shall be fined an amount not to exceed \$20,000 or be imprisoned in the state prison for a term not to exceed 20 years, or both. A person convicted of a second offense shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 5 years, or both. A person convicted of a third or subsequent offense shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined an amount not to exceed \$5,000.

(ii) *If the victim is a minor, incapacitated person, or vulnerable adult, the offender shall be fined an amount not to exceed \$20,000 or be imprisoned in the state prison for a term not to exceed 20 years, or both.*

(c) A person convicted of theft of identity if an economic benefit exceeding \$5,000 in value was gained or attempted to be gained shall be fined an amount not to exceed \$10,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(3) As used in this section, “personal identifying information” includes but is not limited to the name, date of birth, address, telephone number, driver’s license number, social security number or other federal government identification number, tribal identification card number, place of employment, employee identification number, mother’s maiden name, financial institution account number, credit card number, or similar identifying information relating to a person.

(4) If restitution is ordered, the court may include, as part of its determination of an amount owed, payment for any costs incurred by the victim, including attorney fees and any costs incurred in clearing the credit history or credit rating of the victim or in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising as a result of the actions of the defendant.”

Section 10. Effective date. [This act] is effective July 1, 2025.

Approved May 12, 2025

CHAPTER NO. 584

[SB 69]

AN ACT REVISING COUNTY ATTORNEY REPORTING REQUIREMENTS RELATED TO CHILDHOOD SEXUAL ABUSE; PROVIDING FOR AN ANNUAL REPORTING REQUIREMENT; AMENDING SECTIONS 41-3-210, 41-3-211, AND 41-3-212, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 41-3-210, MCA, is amended to read:

“41-3-210. County attorney duties – certification – retention of records – reports to attorney general and legislature – attorney general report. (1) (a) The county attorney shall gather all case notes, correspondence, evaluations, interviews, and other investigative materials pertaining to each report from the department or investigation by law enforcement of sexual abuse or sexual exploitation of a child made within the county when the alleged perpetrator of the sexual abuse or sexual exploitation is 12 years of age or older. After a report is made or an investigation is commenced, the following individuals or entities shall provide to the county attorney all case notes, correspondence, evaluations, interviews, and other investigative materials related to the report or investigation:

(i) the department;

(ii) state and local law enforcement; and

(iii) all members of a county or regional interdisciplinary child information and school safety team established under 52-2-211.

(b) The duty to provide records to the county attorney under subsection (1)(a) remains throughout the course of an investigation, an abuse and neglect proceeding conducted pursuant to this part, or the prosecution of a case involving the sexual abuse of a child or sexual exploitation of a child.

(c) Upon receipt of a report from the department, as required in 41-3-202, that includes an allegation of sexual abuse of a child or sexual exploitation of a child, the county attorney shall certify in writing to the person who initially reported the information that the county attorney received the report. The certification must include the date the report was received and the age and gender of the alleged victim. If the report was anonymous, the county attorney shall provide the certification to the department. If the report was made to the county attorney by a law enforcement officer, the county attorney is not required to provide the certification.

(2) The county attorney shall retain records relating to the report or investigation, including the certification, case notes, correspondence, evaluations, videotapes, and interviews, for 25 years.

(3) ~~On or before January 1 and June 1 of each year~~ *On or before June 1 of each year*, each county attorney shall report to the attorney general. The report to the attorney general must include, for each report from the department or investigation by law enforcement:

(a) a unique case identifier;

(b) the date that the initial report or allegation was received by the county attorney;

(c) the date any charges were filed;

(d) the date of any decision to decline to prosecute;

(e) if charges are filed against a defendant, whether a conviction was obtained and, if a conviction was obtained, the sentence imposed by the court; and

(f) the number of certifications made as required by subsection (1)(c), including the number of certifications made to the department; and

(g) of the reports submitted pursuant to 41-3-202(1)(b), the number of reports presented that have not resulted in a prosecution or a declination of prosecution within 2 years of the date of the initial report received by the county attorney, and the basis for not making a decision on whether to prosecute or decline prosecution in the matters reported.

(4) (a) The attorney general shall create a form for county attorneys to use when submitting reports required by subsection (3). The form must allow collection of the information required by subsection (3) on an aggregated, cumulative basis for a 5-year period until charges are filed or a decision is made to decline to prosecute.

(b) The information provided by a county attorney on the forms is confidential criminal justice information as defined in 44-5-103.

(5) The attorney general shall report to the law and justice interim committee each year by August 15 and as provided in 5-11-210. The reports must provide:

(a) aggregated information regarding the status of the cases reported in subsection (3) by the county attorneys, except for those cases pending review of the county attorney or uncharged cases still under investigation, including data on the total number of cases reported;

(b) the number of cases declined for prosecution in the prior fiscal year;

(c) the number of cases charged in the prior fiscal year;

(d) the initials of each defendant charged in the prior fiscal year who had been identified in the reports submitted pursuant to 41-3-202(1)(b) as an alleged perpetrator of sexual abuse or sexual exploitation and was charged based upon the conduct alleged;

(e) the initials of each defendant identified in the reports submitted pursuant to 41-3-202(1)(b) as an alleged perpetrator of sexual abuse or sexual exploitation for whom a conviction was obtained based upon the conduct alleged;

(f) the initials of each defendant identified in the reports submitted pursuant to 41-3-202(1)(b) as an alleged perpetrator of sexual abuse or sexual exploitation for whom a sentence was imposed based upon the conduct alleged and the sentence imposed by the court for the defendant;

~~(d)(g)~~ any action in the past fiscal year that the attorney general took under the authority of 2-15-501 based on the reports submitted as required in subsection (3). A report made pursuant to this subsection ~~(5)(d)(g)~~ may not include the name of the county.

~~(e)(h)~~ after consideration of the information provided by the department pursuant to 41-3-211, any county attorney who failed to provide a complete report required by subsection (3)."

Section 2. Section 41-3-211, MCA, is amended to read:

"41-3-211. Department report to attorney general. (1) By July 15 of each year, the department shall report to the attorney general and the law and justice interim committee in accordance with 5-11-210 the number of referrals to county attorneys pursuant to 41-3-202(1)(b)(i) that the department made for each county in the previous fiscal year.

(2) *If the department believes based upon its investigation or knowledge that a prosecution should be pursued for sexual abuse or sexual exploitation that has not been charged, it shall advise the attorney general and summarize the facts supporting its conclusion."*

Section 3. Section 41-3-212, MCA, is amended to read:

“41-3-212. Department procedures for reports – recording – notifications. (1) A department employee receiving a report of abuse or neglect pursuant to this part shall:

(a) obtain the information and provide the notifications specified in this section; and

(b) make an audio recording when a report is made by phone. The department shall retain the recording in the same manner as provided for safety and risk assessments in 41-3-202.

(2) A department employee receiving a report of abuse or neglect shall request the following information:

(a) the specific facts giving rise to the reasonable suspicion of child abuse or neglect, *including the name or names of the alleged victims and the name or names of the alleged perpetrator or perpetrators if the report discloses allegations consisting of sexual abuse or sexual exploitation*, and the source or sources of the information; and

(b) (i) if the person making the report is required under 41-3-201 to report suspected abuse or neglect, the person’s name and telephone number and the capacity that makes the person a mandatory reporter under 41-3-201; or

(ii) if the person making the report is not a mandatory reporter under 41-3-201, the person’s name and telephone number. If the person is unwilling to provide the information, the person receiving the report shall notify the caller that if the caller suspects the child is at serious risk of imminent harm, to call 9-1-1 so the call will be prioritized as an emergency.

(3) Reports made under this part are confidential as provided in 41-3-205. The privacy of the person making the report must be protected as provided in 41-3-205(3)(d) and (3)(h).

(4) A department employee receiving a report pursuant to 41-3-201 shall:

(a) to the greatest extent possible, attempt to obtain the name and phone number of the person making the report and document any other identifying information available, including but not limited to the caller’s phone number when identified by the phone system; and

(b) if the report is being made by phone, notify the caller that the report is being recorded and the person’s identity will be kept confidential.”

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 12, 2025

CHAPTER NO. 585

[SB 77]

AN ACT REQUIRING CONSERVATION DISTRICTS TO COMPLY WITH STATE PROCUREMENT LAWS; AMENDING SECTIONS 76-15-1005, 76-15-1006, 76-15-1011, AND 76-15-1012, MCA; AND REPEALING SECTION 76-15-1004, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Restriction on use of funds. A conservation district shall comply with state procurement laws when expending state-funded grants and loans.

Section 2. Services contracts. Contracts for architectural, engineering, and land surveying services as defined in 18-8-202 must comply with the state public procurement requirements of Title 18, chapter 8, part 2.

Section 3. Section 76-15-1005, MCA, is amended to read:

“76-15-1005. Requirements for purchases or construction contracts. For contracts for the purchase of vehicles, machinery, equipment, materials, or supplies or for construction, repair, restoration, or maintenance under this chapter in excess of the limit provided in 7-5-2301, supervisors shall comply with the provisions of 76-15-1006 and may:

- (1) award the contract to the lowest responsible bidder;
- (2) postpone awarding a contract;
- (3) reject any or all bids; or
- (4) ~~readvertise the contract~~ *award a contract according to the selection criteria for proposals and bidding as described in 18-4-303 and 18-4-304.”*

Section 4. Section 76-15-1006, MCA, is amended to read:

“76-15-1006. Advertisements. (1) The advertisement for requests for bids, proposals, or qualifications must:

- (a) *set forth the evaluation criteria to be used;* and
- (b) be published in a newspaper of general circulation that includes the conservation district.

(2) A second publication may not be made less than 5 days or more than 12 days before the opening of bids.

(3) A second publication may not be made less than 5 days or more than 12 days before the deadline for the submission of a request for proposals or a request for qualifications.”

Section 5. Section 76-15-1011, MCA, is amended to read:

“76-15-1011. Exemptions from advertising and bidding. (1) When immediate delivery of supplies, equipment, or services is required in an emergency, including but not limited to fire, flood, explosion, storm, earthquake, riot, or insurrection, the provisions of 76-15-1005 and 76-15-1006 do not apply if:

(a) the supervisors act, by majority vote in an open meeting, in a manner that best meets the emergency and serves the public interest; and

(b) the emergency is declared and recorded in the minutes of the board of supervisors meeting.

(2) Supplies or services may be purchased without bid from government agencies if purchased at a substantial savings.

(3) (a) ~~Contracts may be entered into by direct negotiations~~ *for the purchase of vehicles, machinery, equipment, materials, or supplies or for construction, repair, restoration, or maintenance under Title 76, chapter 15, for which the cost is less than the limit provided in 7-5-2301 may be entered into by direct negotiation.*

(b) *A contract for architectural, engineering, and land surveying services may be entered into by direct negotiation subject to the limits of 18-8-212.*

(c) *For other contracts, if the total contract value is estimated to be:*

(i) *less than \$10,000, a purchase technique may be used to meet conservation district needs;*

(ii) *more than \$10,000 but not to exceed \$100,000, a limited solicitation procedure may be used. This procedure requires a minimum of three viable written or oral quotations, if available, with an award based on the lowest responsible bid price that meets all criteria and specifications. A conservation district shall document the basis for an award under a limited solicitation procedure.*

(iii) *more than \$100,000, a conservation district shall advertise for bids, proposals, or qualifications pursuant to 76-15-1006 and award a contract using a request for proposal or an invitation to bid pursuant to 76-15-1012.*

(4) Vehicles, machinery, equipment, materials, or supplies may be rented if the rental results in a substantial savings over purchase.”

Section 6. Section 76-15-1012, MCA, is amended to read:

“76-15-1012. Terms and extensions. (1) *Prior Except as provided in 76-15-1011, prior to the issuance, extension, or renewal of a contract; it must be determined that:*

(a) estimated requirements cover the period of the contract and are reasonably firm and continuing; and

(b) the contract will serve the best interests of the conservation district by encouraging effective competition or otherwise promoting economies in conservation district procurement the contract meets the selection criteria for proposals and bidding as described in 18-4-303 and 18-4-304.

(2) A contract may not be made for a period of more than 7 years.

(3) A contract may be extended or renewed if:

(a) the terms of the extension or renewal, if any, are included in the solicitation;

(b) funds are available for the first fiscal period at the time of the agreement; and

(c) the total contract period, including any extension or renewal, does not exceed 7 years.

(4) Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of funds for the fiscal periods.

(5) If funds are not available to support continuation of performance in a subsequent fiscal period, the contract must be canceled.”

Section 7. Repealer. The following section of the Montana Code Annotated is repealed:

76-15-1004. Service contracts.

Section 8. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 76, chapter 15, part 10, and the provisions of Title 76, chapter 15, part 10, apply to [sections 1 and 2].

Approved May 12, 2025

CHAPTER NO. 586

[SB 93]

AN ACT REVISING STATE INCOME TAXATION FOR MILITARY PENSIONS, RETIREMENT, AND SURVIVOR BENEFITS; ELIMINATING THE STATUTORY SUNSET OF THE EXEMPTION; AMENDING SECTION 15-30-2120, MCA; REPEALING SECTION 4, CHAPTER 650, LAWS OF 2023; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-30-2120, MCA, is amended to read:

“15-30-2120. Adjustments to federal taxable income to determine Montana taxable income. (1) The items in subsection (2) are added to and the items in subsection (3) are subtracted from federal taxable income to determine Montana taxable income.

(2) The following are added to federal taxable income:

(a) to the extent that it is not exempt from taxation by Montana under federal law, interest from obligations of a territory or another state or any political subdivision of a territory or another state and exempt-interest dividends attributable to that interest except to the extent already included in federal taxable income;

(b) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

(c) depreciation or amortization taken on a title plant as defined in 33-25-105;

(d) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer's Montana income tax in the year deducted;

(e) an item of income, deduction, or expense to the extent that it was used to calculate federal taxable income if the item was also used to calculate a credit against a Montana income tax liability;

(f) a deduction for an income distribution from an estate or trust to a beneficiary that was included in the federal taxable income of an estate or trust in accordance with sections 651 and 661 of the Internal Revenue Code, 26 U.S.C. 651 and 661;

(g) a withdrawal from a medical care savings account provided for in Title 15, chapter 61, used for a purpose other than an eligible medical expense or long-term care of the employee or account holder or a dependent of the employee or account holder;

(h) a withdrawal from a first-time home buyer savings account provided for in Title 15, chapter 63, used for a purpose other than for eligible costs for the purchase of a single-family residence;

(i) for a taxpayer that deducts the qualified business income deduction pursuant to section 199A of the Internal Revenue Code, 26 U.S.C. 199A, an amount equal to the qualified business income deduction claimed;

(j) for an individual taxpayer that deducts state income taxes pursuant to section 164(a)(3) of the Internal Revenue Code, 26 U.S.C. 164(a)(3), an additional amount equal to the state income tax deduction claimed, not to exceed the amount required to reduce the federal itemized amount computed under section 161 of the Internal Revenue Code, 26 U.S.C. 161, to the amount of the federal standard deduction allowable under section 63(c) of the Internal Revenue Code, 26 U.S.C. 63(c); and

(k) for a pass-through entity, estate, or trust, the amount of state income taxes deducted pursuant to section 164(a)(3) of the Internal Revenue Code, 26 U.S.C. 164(a)(3).

(3) To the extent they are included as income or gain or not already excluded as a deduction or expense in determining federal taxable income, the following are subtracted from federal taxable income:

(a) a deduction for an income distribution from an estate or trust to a beneficiary in accordance with sections 651 and 661 of the Internal Revenue Code, 26 U.S.C. 651 and 661, recalculated according to the additions and subtractions in subsections (2) and (3)(b) through (3)(o);

(b) if exempt from taxation by Montana under federal law:

(i) interest from obligations of the United States government and exempt-interest dividends attributable to that interest; and

(ii) railroad retirement benefits;

(c) (i) salary received from the armed forces by residents of Montana who are serving on active duty in the regular armed forces and who entered into active duty from Montana;

(ii) the salary received by residents of Montana for active duty in the national guard. For the purposes of this subsection (3)(c)(ii), "active duty" means duty performed under an order issued to a national guard member pursuant to:

(A) Title 10, U.S.C.; or

(B) Title 32, U.S.C., for a homeland defense activity, as defined in 32 U.S.C. 901, or a contingency operation, as defined in 10 U.S.C. 101, and the person was a member of a unit engaged in a homeland defense activity or contingency operation.

(iii) the amount received by a beneficiary pursuant to 10-1-1201; and

(iv) all payments made under the World War I bonus law, the Korean bonus law, and the veterans' bonus law. Any income tax that has been or may be paid on income received from the World War I bonus law, Korean bonus law, and the veterans' bonus law is considered an overpayment and must be refunded upon the filing of an amended return and a verified claim for refund on forms prescribed by the department in the same manner as other income tax refund claims are paid.

(d) annual contributions and income in a medical care savings account provided for in Title 15, chapter 61, and any withdrawal for payment of eligible medical expenses or for the long-term care of the employee or account holder or a dependent of the employee or account holder;

(e) contributions or earnings withdrawn from a family education savings account provided for in Title 15, chapter 62, or from a qualified tuition program established and maintained by another state as provided in section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified education expenses, as defined in 15-62-103, of a designated beneficiary;

(f) interest and other income related to contributions that were made prior to January 1, 2024, that are retained in a first-time home buyer savings account provided for in Title 15, chapter 63, and any withdrawal for payment of eligible costs for the first-time purchase of a single-family residence;

(g) for each taxpayer that has attained the age of 65, an additional subtraction of \$5,500;

(h) the amount of a scholarship to an eligible student by a student scholarship organization pursuant to 15-30-3104;

(i) a payment received by a private landowner for providing public access to public land pursuant to Title 76, chapter 17, part 1;

(j) the amount of any refund or credit for overpayment of income taxes imposed by this state or any other taxing jurisdiction to the extent included in gross income for federal income tax purposes but not previously allowed as a deduction for Montana income tax purposes;

(k) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

(l) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in 15-31-163;

(m) payments from the Montana end of watch trust as provided in 2-15-2041;

(n) (i) subject to subsection (9), a portion of military pensions or military retirement income as calculated pursuant to subsection (8) that is received by a retired member of:

(A) the armed forces of the United States, as defined in 10 U.S.C. 101;

(B) the Montana army national guard or the army national guard of other states;

(C) the Montana air national guard or the air national guard of other states; or

(D) a reserve component, as defined in 38 U.S.C. 101, of the United States armed forces; and

(ii) subject to subsection (9), up to 50% of all income received as survivor benefits for military service provided for in subsection (3)(n)(i)(A) through (3)(n)(i)(D); and

(o) the amount of the property tax rebate received under 15-1-2302.

(4) (a) A taxpayer who, in determining federal taxable income, has reduced the taxpayer's business deductions:

(i) by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken; or

(ii) for which a federal tax credit was elected under the Internal Revenue Code is allowed to deduct the amount of the business expense paid when there is no corresponding state income tax credit or deduction, regardless of the credit taken.

(b) The deductions in subsection (4)(a) must be made in the year that the wages, salaries, or business expenses were used to compute the credit. In the case of a partnership or small business corporation, the deductions in subsection (4)(a) must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) (a) An individual who contributes to one or more accounts established under the Montana family education savings program or to a qualified tuition program established and maintained by another state as provided in section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The reduction in taxable income under this subsection (5)(a) applies only with respect to contributions to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (2)(d) do not apply with respect to withdrawals of contributions that reduced federal taxable income.

(b) Contributions made pursuant to this subsection (5) are subject to the recapture tax provided for in 15-62-208.

(6) (a) An individual who contributes to one or more accounts established under the Montana achieving a better life experience program or to a qualified program established and maintained by another state may reduce taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not to exceed \$3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat one-half of the total contributions made by the spouses as being made by each spouse. The reduction in taxable income under this subsection (6)(a) applies only with respect to contributions to an account for which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (2)(d) do not apply with respect to withdrawals of contributions that reduced taxable income.

(b) Contributions made pursuant to this subsection (6) are subject to the recapture tax provided in 53-25-118.

(7) By November 1 of each year, the department shall multiply the subtraction from federal taxable income for a taxpayer that has attained the age of 65 contained in subsection (3)(g) by the inflation factor for that tax year, rounding the result to the nearest \$10. The resulting amount is effective for

that tax year and must be used as the basis for the subtraction from federal taxable income determined under subsection (3)(g).

(8) (a) Subject to subsection (9), the subtraction in subsection (3)(n)(i) is equal to the lesser of:

- (i) the amount of Montana source wage income on the return; or
- (ii) 50% of the taxpayer's military pension or military retirement income.

(b) For the purposes of subsection (8)(a)(i), "Montana source wage income" means:

(i) wages, salary, tips, and other compensation for services performed in the state;

(ii) net income from a trade, business, profession, or occupation carried on in the state; and

(iii) net income from farming activities carried on in the state.

(9) The subtractions in subsection (3)(n):

(a) may only be claimed by a person who:

(i) ~~becomes~~ *became* a resident of the state ~~on or after June 30, 2023~~ *June 30, 2023*; or

(ii) was a resident of the state before receiving military pension or military retirement income and remained a resident after receiving military pension or military retirement income;

~~(b) may only be claimed for 5 consecutive years after satisfying the provisions of subsection (9)(a); and~~

~~(c)(b) may only be claimed for 5 consecutive years after satisfying the provisions of subsection (9)(a); and~~

(c) are not available if a taxpayer claimed the exemption before becoming a nonresident. (Subsection (3)(o) terminates June 30, 2025--sec. 10, Ch. 47, L. 2023; subsections (3)(n), (8), and (9) terminate December 31, 2033--sec. 4, Ch. 650, L. 2023.)"

Section 2. Repealer. Section 4, Chapter 650, Laws of 2023, is repealed.

Section 3. Effective date. [This act] is effective January 1, 2026.

Section 4. Applicability. [This act] applies to tax years beginning after December 31, 2025.

Approved May 12, 2025

CHAPTER NO. 587

[SB 103]

AN ACT INCREASING THE FEE FOR ISSUING AN EXECUTION OR ORDER OF SALE ON A FORECLOSURE OF A LIEN; PROVIDING THAT THE INCREASED FEE BE DEPOSITED IN THE COUNTY DISTRICT COURT FUND; AND AMENDING SECTION 25-1-201, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 25-1-201, MCA, is amended to read:

"25-1-201. Fees of clerk of district court. (1) The clerk of district court shall collect the following fees:

(a) at the commencement of each action or proceeding, except a petition for dissolution of marriage, from the plaintiff or petitioner, \$90; for filing a complaint in intervention, from the intervenor, \$80; for filing a petition for dissolution of marriage, \$170; for filing a petition for legal separation, \$150; and for filing a petition for a contested amendment of a final parenting plan, \$120;

(b) from each defendant or respondent, on appearance, \$60;

(c) on the entry of judgment, from the prevailing party, \$50;

(d) (i) except as provided in subsection (1)(d)(ii), for preparing copies of papers on file in the clerk's office in all criminal and civil proceedings, \$1 a page for the first 10 pages of each file, for each request, and 50 cents for each additional page;

(ii) for a copy of a marriage license, \$5, and for a copy of a dissolution decree, \$10;

(iii) for providing copies of papers on file in the clerk's office by facsimile, e-mail, or other electronic means in all criminal and civil proceedings, 25 cents per page;

(e) for each certificate, with seal, \$2;

(f) for oath and jurat, with seal, \$1;

(g) for a search of court records, \$2 for each name for each year searched, for a period of up to 7 years, and an additional \$1 for each name for any additional year searched;

(h) for filing and docketing a transcript of judgment or transcript of the docket from all other courts, the fee for entry of judgment provided for in subsection (1)(c);

(i) for issuing an execution or order of sale on a foreclosure of a lien, \$5 \$25;

(j) for transmission of records or files or transfer of a case to another court, \$5;

(k) for filing and entering papers received by transfer from other courts, \$10;

(l) for issuing a marriage license:

(i) when one or both parties to the marriage are present at the solemnization, \$53;

(ii) when neither party is present at the solemnization, \$83;

(m) on the filing of an application for informal, formal, or supervised probate or for the appointment of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from the applicant or petitioner, \$70, which includes the fee for filing a will for probate;

(n) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative of the estate of a nonresident decedent, \$55;

(o) for filing a declaration of marriage without solemnization, \$53;

(p) for filing a motion for substitution of a judge, \$100;

(q) for filing a petition for adoption, \$75;

(r) for filing a pleading by facsimile or e-mail in all criminal and civil proceedings, 50 cents per page.

(2) Except as provided in subsections (3) and (5) through (7), fees collected by the clerk of district court must be deposited in the state general fund as specified by the supreme court administrator.

(3) (a) Of the fee for filing a petition for dissolution of marriage, \$5 must be deposited in the children's trust fund account established in 52-7-102, \$19 must be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714, and \$30 must be deposited in the partner and family member assault intervention and treatment fund established in 40-15-110.

(b) Of the fee for filing a petition for legal separation, \$5 must be deposited in the children's trust fund account established in 52-7-102 and \$30 must be deposited in the partner and family member assault intervention and treatment fund established in 40-15-110.

(4) If the moving party files a statement signed by the nonmoving party agreeing not to contest an amendment of a final parenting plan at the time the petition for amendment is filed, the clerk of district court may not collect from

the moving party the fee for filing a petition for a contested amendment of a parenting plan under subsection (1)(a).

(5) Of the fee for filing an action or proceeding, except a petition for dissolution of marriage, \$9 must be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714.

(6) The fees collected under subsections (1)(d), (1)(g), (1)(j), and (1)(r) *and \$20 collected under (1)(i)* must be deposited in the county district court fund. If a district court fund does not exist, the fees must be deposited in the county general fund to be used for district court operations.

(7) Of the fee for issuance of a marriage license and the fee for filing a declaration of marriage without solemnization, \$13 must be deposited in the domestic violence intervention account established by 44-7-202 and \$10 must be deposited in the county district court fund, except that \$30 must be deposited in the county district court fund when neither party to a marriage is present at the solemnization. If a district court fund does not exist, the fees must be deposited in the county general fund to be used for district court operations.

(8) Any filing fees, fines, penalties, or awards collected by the district court or district court clerk not otherwise specifically allocated must be deposited in the state general fund.”

Approved May 12, 2025

CHAPTER NO. 588

[SB 147]

AN ACT REVISING THE MONTANA INDIAN CHILD WELFARE ACT AND RELATED LAWS; REPEALING SECTION 55, CHAPTER 716, LAWS OF 2023; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the Montana Legislature recognizes the guiding principles it enacted in section 2-15-142, MCA, that in formulating or implementing policies that have direct tribal implications, the state should consider the following principles:

- (1) a commitment to cooperation and collaboration;
- (2) mutual understanding and respect;
- (3) regular and early communication;
- (4) a process of accountability for addressing issues; and
- (5) preservation of the tribal-state relationship;

and in possibly no other area of concurrent tribal and state law is it more important that these principles be followed as in an area as socially and culturally determinative as family relationships.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. Section 55, Chapter 716, Laws of 2023, is repealed.

Section 2. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 13, 2025

CHAPTER NO. 589

[SB 174]

AN ACT REVISING LAWS RELATED TO THE REVIEW OF BUILDINGS FOR LEASE OR RENT; REQUIRING RECREATIONAL VEHICLES AND MOBILE HOMES TO BE CONSIDERED BUILDINGS FOR LEASE OR RENT FOR THE PURPOSES OF SUBDIVISION REVIEW; AND AMENDING SECTIONS 76-3-103, 76-3-504, 76-3-621, 76-8-101, 76-8-103, AND 76-8-107, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-3-103, MCA, is amended to read:

“76-3-103. Definitions. As used in this chapter, unless the context or subject matter clearly requires otherwise, the following definitions apply:

(1) “Certificate of survey” means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(2) “Cluster development” means a subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped.

(3) “Dedication” means the deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

(4) “Division of land” means the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to this chapter. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.

(5) “Examining land surveyor” means a registered land surveyor appointed by the governing body to review surveys and plats submitted for filing.

(6) “Final plat” means the final drawing of the subdivision and dedication required by this chapter to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this chapter and in regulations adopted pursuant to this chapter.

(7) “Governing body” means a board of county commissioners or the governing authority of a city or town organized pursuant to law.

(8) “Immediate family” means a spouse, children by blood or adoption, and parents.

(9) “Minor subdivision” means a subdivision that creates five or fewer lots from a tract of record.

(10) “Phased development” means a subdivision application and preliminary plat that at the time of submission consists of independently platted development phases that are scheduled for review on a schedule proposed by the subdivider.

(11) “Planned unit development” means a land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.

(12) "Plat" means a graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

(13) "Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body.

(14) "Public utility" has the meaning provided in 69-3-101, except that for the purposes of this chapter, the term includes county or consolidated city and county water or sewer districts as provided for in Title 7, chapter 13, parts 22 and 23, and municipal sewer or water systems and municipal water supply systems established by the governing body of a municipality pursuant to Title 7, chapter 13, parts 42, 43, and 44.

(15) "Subdivider" means a person who causes land to be subdivided or who proposes a subdivision of land.

(16) "Subdivision" means a division of land or land so divided that it creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to the parcels may be sold or otherwise transferred and includes any resubdivision and a condominium. ~~The term also means an area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or mobile homes will be placed.~~

(17) (a) "Tract of record" means an individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office.

(b) Each individual tract of record continues to be an individual parcel of land unless the owner of the parcel has joined it with other contiguous parcels by filing with the county clerk and recorder:

(i) an instrument of conveyance in which the aggregated parcels have been assigned a legal description that describes the resulting single parcel and in which the owner expressly declares the owner's intention that the tracts be merged; or

(ii) a certificate of survey or subdivision plat that shows that the boundaries of the original parcels have been expunged and depicts the boundaries of the larger aggregate parcel.

(c) An instrument of conveyance does not merge parcels of land under subsection (17)(b)(i) unless the instrument states, "This instrument is intended to merge individual parcels of land to form the aggregate parcel(s) described in this instrument" or a similar statement, in addition to the legal description of the aggregate parcels, clearly expressing the owner's intent to effect a merger of parcels."

Section 2. Section 76-3-504, MCA, is amended to read:

"76-3-504. Subdivision regulations – contents. (1) The subdivision regulations adopted under this chapter must comply with the requirements provided for in 76-3-501 and, at a minimum:

(a) list the materials that must be included in a subdivision application in order for the application to be determined to contain the required elements for the purposes of the review required in 76-3-604(1);

(b) except as provided in 76-3-509, 76-3-609, or 76-3-616, require the subdivider to submit to the governing body an environmental assessment as prescribed in 76-3-603;

(c) establish procedures consistent with this chapter for the submission and review of subdivision applications and amended applications;

(d) prescribe the form and contents of preliminary plats and the documents to accompany final plats;

(e) provide for the identification of areas that, because of natural or human-caused hazards, are unsuitable for subdivision development. The regulations must prohibit subdivisions in these areas unless the hazards can be eliminated or overcome by approved construction techniques or other mitigation measures authorized under 76-3-608(4) and (5). Approved construction techniques or other mitigation measures may not include building regulations as defined in 50-60-101 other than those identified by the department of labor and industry as provided in 50-60-901.

(f) prohibit subdivisions for building purposes in areas located within the floodway of a flood of 100-year frequency, as defined by Title 76, chapter 5, or determined to be subject to flooding by the governing body;

(g) prescribe standards for:

(i) the design and arrangement of lots, streets, and roads;

(ii) grading and drainage;

(iii) subject to the provisions of 76-3-511, water supply and sewage and solid waste disposal that meet the:

(A) regulations adopted by the department of environmental quality under 76-4-104 for subdivisions that will create one or more parcels containing less than 20 acres; and

(B) standards provided in 76-3-604 and 76-3-622 for subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres; and

(iv) the location and installation of public utilities;

(h) provide procedures for the administration of the park and open-space requirements of this chapter;

(i) provide for the review of subdivision applications by affected public utilities and those agencies of local, state, and federal government identified during the preapplication consultation conducted pursuant to subsection (1)(q) or those having a substantial interest in a proposed subdivision. A public utility or agency review may not delay the governing body's action on the application beyond the time limits specified in this chapter, and the failure of any agency to complete a review of an application may not be a basis for rejection of the application by the governing body.

(j) when a subdivision creates parcels with lot sizes averaging less than 5 acres, require the subdivider to:

(i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;

(ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or

(iii) reserve and sever all surface water rights from the land;

(k) (i) except as provided in subsection (1)(k)(ii), require the subdivider to establish ditch easements in the subdivision that:

(A) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to

persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;

(B) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and

(C) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.

(ii) Establishment of easements pursuant to this subsection (1)(k) is not required if:

(A) the average lot size is 1 acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, that adequately notifies potential buyers of lots that are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable; or

(B) the water rights are removed or the process has been initiated to remove the water rights from the subdivided land through an appropriate legal or administrative process and if the removal or intended removal is denoted on the preliminary plat. If removal of water rights is not complete upon filing of the final plat, the subdivider shall provide written notification to prospective buyers of the intent to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.

(l) require the subdivider, unless otherwise provided for under separate written agreement or filed easement, to file and record ditch easements for unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights;

(m) require the subdivider to describe, dimension, and show public utility easements in the subdivision on the final plat in their true and correct location. The public utility easements must be of sufficient width to allow the physical placement and unobstructed maintenance of public utility facilities for the provision of public utility services within the subdivision.

(n) establish whether the governing body, its authorized agent or agency, or both will hold public hearings;

(o) establish procedures describing how the governing body or its agent or agency will address information presented at the hearing or hearings held pursuant to 76-3-605 and 76-3-615;

(p) establish criteria that the governing body or reviewing authority will use to determine whether a proposed method of disposition using the exemptions provided in 76-3-201 or 76-3-207 is an attempt to evade the requirements of this chapter. The regulations must provide for an appeals process to the governing body if the reviewing authority is not the governing body.

(q) establish a preapplication process that:

(i) requires a subdivider to meet with the authorized agent or agency, other than the governing body, that is designated by the governing body to review subdivision applications prior to the subdivider submitting the application;

(ii) requires, for informational purposes only, identification of the state laws, local regulations, and growth policy provisions, if a growth policy has been adopted, that may apply to the subdivision review process;

(iii) requires a list to be made available to the subdivider of the public utilities, those agencies of local, state, and federal government, and any other entities that may be contacted for comment on the subdivision application

and the timeframes that the public utilities, agencies, and other entities are given to respond. If, during the review of the application, the agent or agency designated by the governing body contacts a public utility, agency, or other entity that was not included on the list originally made available to the subdivider, the agent or agency shall notify the subdivider of the contact and the timeframe for response.

(iv) requires that a preapplication meeting take place no more than 30 days from the date that the authorized agent or agency receives a written request for a preapplication meeting from the subdivider; and

(v) establishes a time limit after a preapplication meeting by which an application must be submitted;

(r) require that the written decision required by 76-3-620 must be provided to the applicant within 30 working days following a decision by the governing body to approve, conditionally approve, or deny a subdivision;

~~(s) establish criteria for reviewing an area, regardless of its size, that provides or will provide multiple spaces for recreational camping vehicles or mobile homes.~~

(2) In order to accomplish the purposes described in 76-3-501, the subdivision regulations adopted under 76-3-509 and this section may include provisions that are consistent with this section that promote cluster development.”

Section 3. Section 76-3-621, MCA, is amended to read:

“76-3-621. Park dedication requirement. (1) Except as provided in 76-3-509 or subsections (2), (3), and (6) through (9) of this section, a subdivider shall dedicate to the governing body a cash or land donation equal to:

(a) 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;

(b) 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than 1 acre;

(c) 5% of the area of the land proposed to be subdivided into parcels larger than 1 acre and not larger than 3 acres; and

(d) 2.5% of the area of the land proposed to be subdivided into parcels larger than 3 acres and not larger than 5 acres.

(2) When a subdivision is located totally within an area for which density requirements have been adopted pursuant to a growth policy under chapter 1 or pursuant to zoning regulations under chapter 2, the governing body may establish park dedication requirements based on the community need for parks and the development densities identified in the growth policy or regulations. Park dedication requirements established under this subsection are in lieu of those provided in subsection (1) and may not exceed 0.03 acres per dwelling unit.

(3) A park dedication may not be required for:

(a) land proposed for subdivision into parcels larger than 5 acres;

(b) subdivision into parcels that are all nonresidential;

(c) a subdivision in which parcels are not created, except when that subdivision provides ~~permanent multiple spaces for recreational camping vehicles, mobile homes, or~~ for condominiums;

(d) a subdivision in which only one additional parcel is created; or

(e) except as provided in subsection (8), a first minor subdivision from a tract of record as described in 76-3-609(2).

(4) The governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both.

When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation.

(5) (a) In accordance with the provisions of subsections (5)(b) and (5)(c), the governing body shall use the dedicated money or land for development, acquisition, or maintenance of parks to serve the subdivision.

(b) The governing body may use the dedicated money to acquire, develop, or maintain, within its jurisdiction, parks or recreational areas or for the purchase of public open space or conservation easements only if:

(i) the park, recreational area, open space, or conservation easement is within a reasonably close proximity to the proposed subdivision; and

(ii) the governing body has formally adopted a park plan that establishes the needs and procedures for use of the money.

(c) The governing body may not use more than 50% of the dedicated money for park maintenance.

(6) The local governing body shall waive the park dedication requirement if:

(a) (i) the preliminary plat provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development; and

(ii) the area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required under subsection (1);

(b) (i) the preliminary plat provides long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; and

(ii) the area of the land proposed to be subdivided, by virtue of providing long-term protection provided for in subsection (6)(b)(i), is reduced by an amount equal to or exceeding the area of the dedication required under subsection (1);

(c) the area of the land proposed to be subdivided, by virtue of a combination of the provisions of subsections (6)(a) and (6)(b), is reduced by an amount equal to or exceeding the area of the dedication required under subsection (1); or

(d) (i) the subdivider provides for land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and

(ii) the area of the land and any improvements set aside for park and recreational uses equals or exceeds the area of dedication required under subsection (1).

(7) The local governing body may waive the park dedication requirement if:

(a) the subdivider provides land outside the subdivision that affords long-term protection of critical wildlife habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values; and

(b) the area of the land to be subject to long-term protection, as provided in subsection (7)(a), equals or exceeds the area of the dedication required under subsection (1).

(8) (a) A local governing body may, at its discretion, require a park dedication for:

(i) a subsequent minor subdivision as described in 76-3-609(3); or

(ii) a first minor subdivision from a tract of record as described in 76-3-609(2) if:

(A) the subdivision plat indicates development of condominiums or other multifamily housing;

(B) zoning regulations permit condominiums or other multifamily housing;
or

(C) any of the lots are located within the boundaries of a municipality.

(b) A local governing body that chooses to require a park dedication shall specify in regulations the circumstances under which a park dedication will be required.

(9) Subject to the approval of the local governing body and acceptance by the school district trustees, a subdivider may dedicate a land donation provided in subsection (1) to a school district, adequate to be used for school facilities or buildings.

(10) For the purposes of this section:

(a) "cash donation" is the fair market value of the unsubdivided, unimproved land; and

(b) "dwelling unit" means a residential structure in which a person or persons reside.

(11) A land donation under this section may be inside or outside of the subdivision."

Section 4. Section 76-8-101, MCA, is amended to read:

"76-8-101. Definitions. As used in this part, the following definitions apply:

(1) "Building" means a structure or a unit of a structure with a roof supported by columns or walls for the permanent or temporary housing or enclosure of persons or property or for the operation of a business. ~~Except as provided in 76-3-103 (16) the~~ The term includes a recreational camping vehicle, mobile home, or cell tower or multiple spaces for lease or rent under single ownership on which recreational vehicles as defined in 61-1-101 or mobile homes as defined in 15-24-201 will be placed. The term does not include a condominium or townhome.

(2) "Department" means the department of environmental quality provided for in 2-15-3501.

(3) "Governing body" means the legislative authority for a city, town, county, or consolidated city-county government.

(4) "Landowner" means an owner of a legal or equitable interest in real property. The term includes an heir, successor, or assignee of the ownership interest.

(5) "Local reviewing authority" means a local department or board of health that is approved to conduct reviews under Title 76, chapter 4.

(6) "Supermajority" means:

(a) an affirmative vote of at least two-thirds of the present and voting members of a city or town council;

(b) a unanimous affirmative vote of the present and voting county commissioners in counties with three county commissioners;

(c) an affirmative vote of at least four-fifths of the present and voting county commissioners in counties with five commissioners;

(d) an affirmative vote of at least two-thirds of the present and voting county commissioners in counties with more than five commissioners; or

(e) an affirmative vote of at least two-thirds of the present and voting members of the governing body of a consolidated city-county government.

(7) "Tract" means an individual parcel of land that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office."

Section 5. Section 76-8-103, MCA, is amended to read:

“76-8-103. Buildings for lease or rent – exemptions. (1) A building created for lease or rent on a single tract is exempt from the provisions of this part if:

(a) the building is in conformance with applicable zoning regulations adopted pursuant to Title 76, chapter 2, parts 1 through 3, provided that the zoning contains the elements of 76-8-107; or

(b) when applicable zoning regulations are not in effect:

(i) the building was in existence or under construction before September 1, 2013;

(ii) the building provides accommodations as defined in 15-68-101 that are subject to the lodging facility use tax under Title 15, chapter 65, except for *spaces created for recreational camping vehicles or mobile home parks*;

(iii) the building is created for lease or rent for farming or agricultural purposes;

(iv) the building is not served by water and wastewater and will not be leased or rented;

(v) the building is served by water and wastewater and the landowner records a notarized declaration with the clerk and recorder of the county in which the property is located stating that the proposed building will not be leased or rented. The declaration recorded pursuant to this subsection (1)(b)(v) runs with the land and is binding on the landowner and all subsequent landowners and successors in interest to the property. The declaration must include but is not limited to:

(A) the name and address of the landowner;

(B) a legal description of the tract upon which the proposed building will be located; and

(C) a specific description of the building on the tract of record.

(2) Any building that is exempt under subsection (1) from the provisions of this part and that is or will be served by water or wastewater must be in compliance with the provisions of 76-8-106.

(3) The exemption provided in subsection (1)(b)(i) is limited to the first three buildings created for lease or rent on a single tract.”

Section 6. Section 76-8-107, MCA, is amended to read:

“76-8-107. Buildings for lease or rent – four or more buildings – regulations. (1) A governing body shall adopt regulations for the administration and enforcement of the creation of four or more buildings for lease or rent on a single tract.

(2) The regulations adopted pursuant to this section must, at a minimum:

(a) list the materials that must be included in an application for the creation of four or more buildings for lease or rent;

(b) require a description of:

(i) property boundaries;

(ii) onsite and adjacent offsite streets, roads, and easements;

(iii) geographic features;

(iv) existing septic tanks and drainfields;

(v) existing wells; and

(vi) existing and proposed buildings;

(c) require adequate water supply and sewage and solid waste disposal facilities;

(d) require an assessment of potential significant impacts on the surrounding physical environment and human population in the area to be affected, including conditions, if any, that may be imposed on the proposal to avoid or minimize potential significant impacts identified;

(e) require adequate emergency medical, fire protection, and law enforcement services;

(f) require access to the site; ~~and~~

(g) comply with applicable flood plain requirements; *and*

(h) *comply with an adopted growth policy.*

(3) Prior to adopting regulations pursuant to this section, the governing body shall provide an opportunity for public hearing and comment on the proposed regulations. Notice of the public hearing must be published as provided in 7-1-2121 if the governing body is a county commission or as provided in 7-1-4127 if the governing body is a city commission or a town council and must be posted not less than 30 days before the public hearing in at least five public places, including but not limited to public buildings. Public comment must be addressed before the regulations are adopted."

Section 7. Coordination instruction. If either House Bill No. 233 or House Bill No. 534, or both, and [this act] are passed and approved and if either or both and [this act] contain a section that amends 76-8-101, then the sections amending 76-8-101 in House Bill No. 233 and House Bill No. 534 are void.

Section 8. Applicability. [This act] applies to recreational camping vehicles and mobile home spaces created on or after [the effective date of this act].

Approved May 12, 2025

CHAPTER NO. 590

[SB 226]

AN ACT REVISING CERTIFICATION OF PETITION SIGNATURES TO ADD A FILING TIMELINE; AMENDING SECTION 13-27-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-27-302, MCA, is amended to read:

"13-27-302. Certification of signatures. (1) An affidavit, in substantially the following form, must be attached to each sheet or section submitted to the county official:

I, (name of person who is the signature gatherer), swear that I gathered the signatures on the petition to which this affidavit is attached on the stated dates, that I believe the signatures on the petition are genuine, are the signatures of the persons whose names they purport to be, and are the signatures of Montana electors who are registered at the address or have the telephone number following the person's signature, and that the signers knew the contents of the petition before signing the petition. _____

(Date on which the first signature was gathered) _____

(Signature of

petition signature gatherer) _____

(Address

of petition signature gatherer) _____

Subscribed and sworn to before me this ____ day of _____, 20__

Seal _____ (Person authorized to take

oaths) _____ (Title or notarial information)

(2) (a) (i) For an affidavit provided for in subsection (1) that is attached to a signature sheet with a collected signature dated 287 days or more prior to the final date provided in 13-27-104 for filing the petition, the signature gatherer or an agent of the group gathering signatures shall submit the affidavit and the

signature sheet or the section to which the affidavit is attached to the county election administrator by 273 days before the final date provided in 13-27-104 for filing the petition.

(ii) For an affidavit provided for in subsection (1) that is attached to a signature sheet with a collected signature dated 196 days or more prior to the final date provided in 13-27-104 for filing the petition, the signature gatherer or an agent of the group gathering signatures shall submit the affidavit and the signature sheet or the section to which the affidavit is attached to the county election administrator by 182 days before the final date provided in 13-27-104 for filing the petition.

(iii) For an affidavit provided for in subsection (1) that is attached to a signature sheet with a collected signature dated 126 days or more prior to the final date provided in 13-27-104 for filing the petition, the signature gatherer or an agent of the group gathering signatures shall submit the affidavit and the signature sheet or the section to which the affidavit is attached to the county election administrator by 112 days before the final date provided in 13-27-104 for filing the petition.

(iv) For an affidavit provided for in subsection (1) that is attached to a signature sheet with a collected signature dated 98 days or more prior to the final date provided in 13-27-104 for filing the petition, the signature gatherer or an agent of the group gathering signatures shall submit the affidavit and the signature sheet or the section to which the affidavit is attached to the county election administrator by 84 days before the final date provided in 13-27-104 for filing the petition.

(b) Once the affidavit provided for in subsection (1) is submitted, the election administrator shall date stamp the affidavit, register it in a log, and provide a receipt of submission to the signature gatherer or agent of the group gathering signatures.

(c) If the affidavit and the signature sheet or the section to which the affidavit is attached are subject to a deadline in subsection (2)(a) and are not submitted within the timeline required under subsection (2)(a), the county election administrator shall reject the filing and may not process it further.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 12, 2025

CHAPTER NO. 591

[SB 243]

AN ACT AMENDING ZONING REGULATIONS TO ALLOW TALLER BUILDINGS IN CERTAIN MUNICIPALITIES; AMENDING SECTIONS 76-2-304 AND 76-25-303, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-2-304, MCA, is amended to read:

“76-2-304. Criteria and guidelines for zoning regulations. (1) Zoning regulations must be:

- (a) made in accordance with a growth policy; and
- (b) designed to:
 - (i) secure safety from fire and other dangers;
 - (ii) promote public health, public safety, and the general welfare; and

(iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

(2) In the adoption of zoning regulations, the municipal governing body shall consider:

(a) reasonable provision of adequate light and air;

(b) the effect on motorized and nonmotorized transportation systems;

(c) promotion of compatible urban growth;

(d) the character of the district and its peculiar suitability for particular uses; and

(e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

(3) In a city with a population of at least 5,000 residents, duplex housing must be allowed as a permitted use on a lot where a single-family residence is a permitted use, and zoning regulations that apply to the development or use of duplex housing may not be more restrictive than zoning regulations that are applicable to single-family residences.

(4) (a) In a municipality that is designated as an urban area by the United States census bureau with a population over 5,000 as of the most recent census, the city council or other legislative body of the municipality shall allow as a permitted use multiple-unit dwellings and mixed-use developments that include multiple-unit dwellings on a parcel or lot that:

(i) has a will-serve letter from both a municipal water system and a municipal sewer system; and

(ii) is located in a commercial zone.

(b) Zoning regulations in municipalities meeting the requirements of subsection (4)(a) may not include *a requirement to provide a requirement to provide more than:*

(i) *more than* one off-street parking space for each unit and accessible parking spaces as required by the Americans With Disabilities Act of 1990, 42 U.S.C. 12101, et seq.; or

(ii) *more than* an equivalent number of spaces required under subsection (4)(b)(i) provided through a shared parking agreement; or

(iii) *a height restriction of less than 60 feet on buildings that are located in downtown commercial, heavy commercial, or industrial zones.*

(5) As used in this section, the following definitions apply:

(a) "Duplex housing" means a parcel or lot with two dwelling units that are designed for residential occupancy by not more than two family units living independently from each other.

(b) "Family unit" means:

(i) a single person living or residing in a dwelling or place of residence; or

(ii) two or more persons living together or residing in the same dwelling or place of residence.

(c) "Mixed-use development" means a development consisting of residential and nonresidential uses in which the nonresidential uses are less than 50% of the total square footage of the development and are limited to the first floor of buildings that are two or more stories.

(d) "Multiple-unit dwelling" means a building designed for five or more dwelling units in which the dwelling units share a common separation like a ceiling or wall and in which access cannot be gained between units through an internal doorway, excluding common hallways.

(e) "Single-family residence" has the meaning provided in 70-24-103."

Section 2. Section 76-25-303, MCA, is amended to read:

"76-25-303. Limitations on zoning authority. (1) A local government acting pursuant to this part may not:

(a) treat manufactured housing units differently from any other residential units;

(b) include in a zoning regulation any requirement to:

(i) pay a fee for the purpose of providing housing for specified income levels or at specified sale prices; or

(ii) dedicate real property for the purpose of providing housing for specified income levels or at specified sale prices, including a payment or other contribution to a local housing authority or the reservation of real property for future development of housing for specified income levels or specified sale prices;

(c) prevent the erection of an amateur radio antenna at heights and dimensions sufficient to accommodate amateur radio service communications by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States;

(d) establish a maximum height limit for an amateur radio antenna of less than 100 feet above the ground;

(e) subject to subsection (2) and outside of incorporated municipalities, prevent the complete use, development, or recovery of any mineral, forest, or agricultural resources identified in the land use plan, except that the use, development, or recovery may be reasonably conditioned or prohibited within residential zones;

(f) except as provided in subsection (3), treat the following differently from any other residential use of property:

(i) a foster home, kinship foster home, youth shelter care facility, or youth group home operated under the provisions of 52-2-621 through 52-2-623, if the home or facility provides care on a 24-hour-a-day basis;

(ii) a community residential facility serving eight or fewer persons, if the facility provides care on a 24-hour-a-day basis; or

(iii) a family day-care home or a group day-care home registered by the department of public health and human services under Title 52, chapter 2, part 7;

(g) except as provided in subsection (3), apply any safety or sanitary regulation of the department of public health and human services or any other agency of the state or a political subdivision of the state that is not applicable to residential occupancies in general to a community residential facility serving 8 or fewer persons or to a day-care home serving 12 or fewer children; or

(h) prohibit any existing agricultural activities or force the termination of any existing agricultural activities outside the boundaries of an incorporated city, including agricultural activities that were established outside the corporate limits of a municipality and thereafter annexed into the municipality; or

(i) enact a height restriction that would violate 76-2-304(4)(b)(iii).

(2) Regulations that condition or prohibit uses pursuant to subsection (1)(e) must be in effect prior to the filing of a permit application or at the time a written request is received for a preapplication meeting pursuant to 82-4-432.

(3) Except for a day-care home registered by the department of public health and human services, a local government may impose zoning standards and conditions on any type of home or facility identified in subsections (1)(f) and (1)(g) if those zoning standards and conditions do not conflict with the requirements of subsections (1)(f) and (1)(g)."

Section 3. Effective date. [This act] is effective October 1, 2026.

Approved May 12, 2025

CHAPTER NO. 592

[SB 253]

AN ACT GENERALLY REVISING LAWS RELATED TO STUDENT SCHOLARSHIP ORGANIZATIONS; REQUIRING A STUDENT SCHOLARSHIP ORGANIZATION TO APPLY FOR CERTIFICATION FROM THE DEPARTMENT OF REVENUE; ESTABLISHING REQUIREMENTS FOR CERTIFICATION; ENSURING A PARENT'S RIGHT TO SELECT AN EDUCATION PROVIDER; INCREASING TRANSPARENCY AND ACCOUNTABILITY REQUIREMENTS FOR STUDENT SCHOLARSHIP ORGANIZATIONS; REVISING A DEFINITION; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 15-30-3102, 15-30-3103, 15-30-3105, AND 15-30-3106, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-30-3102, MCA, is amended to read:

"15-30-3102. (Temporary) Definitions. As used in this part, the following definitions apply:

(1) "Department" means the department of revenue provided for in 2-15-1301.

(2) "Donation" means a gift of cash.

(3) "Eligible student" means a student who is a Montana resident and who is 5 years of age or older on or before September 10 of the year of attendance and has not yet reached 19 years of age.

(4) "Innovative educational program" includes any of the following:

(a) transformational learning as defined in 20-7-1602;

(b) advanced opportunity as defined in 20-7-1503;

(c) any program, service, instructional methodology, or adaptive equipment used to expand opportunity for a child with a disability as defined in 20-7-401;

(d) any courses provided through work-based learning partnerships or for postsecondary credit or career certification;

(e) technology enhancements, including but not limited to any expenditure incurred for purposes specified in 20-9-533; and

(f) capital improvements and equipment necessary to support an innovative educational program.

(5) "Partnership" has the meaning provided in 15-30-2101.

(6) "Pass-through entity" has the meaning provided in 15-30-2101.

(7) "Qualified education provider" means an education provider that:

(a) is not a public school;

(b) (i) is accredited, has applied for accreditation, or is provisionally accredited by a state, regional, or national accreditation organization; or

(ii) is a nonaccredited provider or tutor and has informed the child's parents or legal guardian in writing at the time of enrollment that the provider is not accredited and is not seeking accreditation;

(c) is not a home school as referred to in 20-5-102(2)(e);

(d) satisfies the health and safety requirements prescribed by law for private schools in this state; and

(e) qualifies for an exemption from compulsory enrollment under 20-5-102(2)(e) and 20-5-109.

(8) "Small business corporation" has the meaning provided in 15-30-3301.

(9) "Student scholarship organization" means a charitable organization in this state that:

(a) is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3);

(b) *is certified by the department in accordance with the requirements under 15-30-3103 to accept donations eligible for the tax credit under 15-30-3111 and provide scholarships to eligible students;*

(b)(c) allocates not less than 90% of its annual revenue from donations eligible for the tax credit under 15-30-3111 for scholarships to allow students to enroll with any qualified education provider; and

(c)(d) provides educational scholarships to eligible students without limiting ~~student access to only one access to a parent's or guardian's choice of~~ *qualified* education provider.

(10) "Taxpayer" has the meaning provided in 15-30-2101. (Terminates December 31, 2029--sec. 20, Ch. 480, L. 2021, sec. 7, Ch. 558, L. 2023, sec. 12, Ch. 558, L. 2023.)"

Section 2. Section 15-30-3103, MCA, is amended to read:

"15-30-3103. (Temporary) Requirements for student scholarship organizations. (1) A student scholarship organization:

(a) *shall apply for certification, in a manner prescribed by the department, prior to accepting donations eligible for the tax credit under 15-30-3111. Certification under this subsection (1)(a) is valid for the tax year for which it is issued and for the immediately following tax year. In no case may a certification be valid for more than 2 tax years.*

(i) *The department shall issue a decision related to the certification of a student scholarship organization no more than 60 days following the date on which the department received the student scholarship organization's application for certification.*

(ii) *If the department finds that a student scholarship organization has not complied with the requirements of this part, the department shall deny certification.*

(iii) *A student scholarship organization that is denied certification must be granted 30 days to rectify the causes for the denial. If the organization fails to rectify the causes for the denial, the department shall issue a final denial of certification. A final denial of certification may not be appealed.*

(iv) *A student scholarship organization that has received a final denial of certification may reapply for certification with the department for the tax year following the tax year for which the denial was issued.*

(v) *A student scholarship organization that has not been certified under this section may not accept donations eligible for the tax credit under 15-30-3111. The organization shall disburse all remaining scholarship funds from previous donations in accordance with the requirements in this part.*

(a)(b) shall obligate at least 90% of its annual revenue from donations eligible for the tax credit under 15-30-3111 for scholarships. For the purpose of this calculation:

(i) the cost of the annual fiscal review provided for in 15-30-3105(1)(b) may be paid out of the total donations before calculation of the 90% minimum obligation amount; and

(ii) all donations subject to the 90% minimum obligation amount that are received in 1 calendar year must be paid out in scholarships within the 3 calendar years following the donation.

(b)(c) may not *limit*, restrict, or reserve scholarships for use at a ~~particular~~ *single* education provider or any particular type of education provider and

shall allow an eligible student to enroll with any qualified education provider of the parents' or legal guardian's choice;

~~(c)~~(d) shall provide scholarships to eligible students to attend instruction offered by a qualified education provider;

~~(d)~~(e) may not provide a scholarship to an eligible student for an academic year that exceeds the per-pupil average of total public school expenditures calculated in 20-9-570;

~~(e)~~(f) shall maintain separate accounts for scholarship funds and operating funds;

~~(f)~~(g) may transfer funds to another student scholarship organization *with prior written notice to the department*;

~~(g)~~(h) shall maintain an application process under which scholarship applications are accepted, reviewed, approved, and denied; ~~and~~

~~(h)~~(i) shall comply with payment and reporting requirements in accordance with 15-30-3104 and 15-30-3105; *and*

(j) shall maintain on its public website:

(i) a detailed description of the organization's scholarship application and scholarship award processes;

(ii) a list of the qualified education providers to which the student scholarship organization awarded scholarships in the previous school year; and

(iii) the following language prominently displayed: Scholarships from this student scholarship organization may be used at any qualified education provider of the parent's or legal guardian's choice.

(2) An organization that fails to satisfy the conditions of this section is subject to termination as provided in 15-30-3113. (Terminates December 31, 2029--sec. 20, Ch. 480, L. 2021, sec. 7, Ch. 558, L. 2023.)"

Section 3. Section 15-30-3105, MCA, is amended to read:

"15-30-3105. (Temporary) Reporting requirements for student scholarship organizations. (1) Each student scholarship organization shall:

~~(a) submit a notice to the department of its intent to operate as a student scholarship organization prior to accepting donations~~ *submit an application to the department for certification as a student scholarship organization pursuant to 15-30-3103(1)(a);*

~~(b) complete an annual fiscal review of its accounts by an independent certified public accountant within 120 days after the close of the calendar year that discloses for each of the 3 most recently completed calendar years:~~

~~(i) the total number and dollar value of individual and corporate contributions;~~

~~(ii) the total number and dollar value of scholarships obligated to eligible students;~~

~~(iii) the total number and dollar value of scholarships awarded to eligible students;~~

~~(iv) the number and amount of scholarships awarded to each qualified education provider that is not a tutor; and~~

~~(iv)~~(v) the cost of the annual fiscal review;

~~(c) submit the annual fiscal review report to the department within 150 days of the close of the calendar year; and~~

~~(d) by December 31 of each year, submit to the department links to the website containing the information required by 15-30-3103(1)(j).~~

(2) The department shall provide written notice to a student scholarship organization that fails to submit the annual fiscal review report, and the organization has 30 days from receipt of the notice to submit the report.

(3) An organization that fails to satisfy the conditions of this section is subject to termination as provided in 15-30-3113. (Terminates December 31, 2029--sec. 20, Ch. 480, L. 2021.)”

Section 4. Section 15-30-3106, MCA, is amended to read:

“15-30-3106. (Temporary) Student scholarship organizations – listing on website. The department shall maintain on its website a hyperlink to a current list of all:

(1) student scholarship organizations that have ~~provided notice been certified pursuant to 15-30-3105(1)(a); and~~

(2) ~~scholarship award policies adopted and published by each student scholarship organization pursuant to 15-20-3103(1)(j);~~

(2)(3) ~~qualified education providers that accepted scholarship funds from a student scholarship organization the names of qualified education providers to which each student scholarship organization awarded scholarships in the previous calendar year;~~

(4) ~~the number and amount of scholarships provided to each qualified education provider that is not a tutor in the previous calendar year; and~~

(5) ~~hyperlinks to each student scholarship organization’s website.~~ (Terminates December 31, 2029--sec. 20, Ch. 480, L. 2021, sec. 7, Ch. 558, L. 2023.)”

Section 5. Appropriation. (1) There is appropriated \$206,000 from the general fund to the department of revenue for the biennium beginning July 1, 2025, for the purpose of implementing [this act].

(2) The legislature intends that this is a one-time-only appropriation.

Section 6. Coordination instruction. If House Bill No. 2 and [this act] are both passed and approved, then the appropriation in [section 5 of this act] supersedes contingency language in House Bill No. 2 related to [this act] and contingency language in House Bill No. 2 related to [this act] is void.

Section 7. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2025.

(2) [Sections 1 through 4] are effective October 1, 2025.

Approved May 12, 2025

CHAPTER NO. 593

[SB 260]

AN ACT PROVIDING FOR THE ALTERATION OF DISTRICT BOUNDARIES FOR INABILITY TO ACCESS PUBLIC SERVICES; PROVIDING FOR PETITION, PUBLIC HEARING, AND ELECTION PROCEDURES FOR ALTERING HOSPITAL DISTRICT BOUNDARIES; PROVIDING FOR THE SHARING OF TAX COLLECTIONS WHEN HOSPITAL DISTRICT BOUNDARIES ARE ALTERED; PROVIDING FOR RECONCILIATION PAYMENTS BETWEEN CERTAIN SCHOOL DISTRICTS WHEN ISOLATED PUPILS ARE INVOLVED; ESTABLISHING A PROCESS FOR A SCHOOL DISTRICT TO SEEK A RECONCILIATION PAYMENT BY PETITIONING THE COUNTY SUPERINTENDENT AND PAYING A PROCESSING FEE; PROVIDING THAT THE TAXABLE VALUE OF TERRITORY TRANSFERRED BETWEEN SCHOOL DISTRICTS IS SPLIT BETWEEN THE DISTRICTS FOR A PERIOD OF 3 YEARS; PROVIDING FOR PAYMENTS BETWEEN DISTRICTS FOLLOWING A TERRITORY TRANSFER IF A

RECONCILIATION PAYMENT WAS MADE PREVIOUSLY; PROVIDING DEFINITIONS; AMENDING SECTION 20-6-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. For the purposes of [sections 1 through 8], the following definitions apply:

(1) "Hospital district" means a district created pursuant to Title 7, chapter 34, part 21.

(2) "Inability to access public services" means the inability of a real property owner to reach public services in the county in which the owner's property is located due to:

(a) a physical or geographical barrier;

(b) a lack of public county or public county-maintained roads; or

(c) a lack of legal access on private roads requiring travel into an adjacent county and back into the county in which the owner's property is located; or

(d) access on roads that require ambulances to travel more than 60 minutes to reach the property when following all speed limits.

(3) "Public services" means any of the following that are offered to the general public:

(a) educational services and facilities; or

(b) hospital or emergency medical services and facilities.

(4) "Qualified petitioner" means:

(a) for a petition related to a hospital district, an owner of real property located within the hospital district:

(i) whose property is more reasonably accessible to public services headquartered in the county seat or closest city, town, resort community, resort area, or resort area district of an adjoining county than to public services headquartered in the county seat or closest city, town, resort community, resort area, or resort area district of the county in which the owner's property is located, or

(ii) from whose property the owner has an inability to access public services from the county seat or closest city, town, resort community, resort area, or resort area district of the county in which the owner's property is located;

(b) for a petition related to a school district, a petition described in 20-6-105.

(5) "School district" means a school district created under Title 20, chapter 6.

Section 2. Alteration of district boundaries for inaccessibility.

(1) (a) A qualified petitioner may petition for the alteration of hospital district or school district boundaries due to an inability to access public services as provided in [sections 1 through 8].

(b) A qualified petitioner may not petition to alter hospital district boundaries under the process provided in [sections 1 through 8] if any portion of the property identified in the petition for separation is subject to an active petition for withdrawal of land from a hospital district under 7-34-2156.

(2) A petition for a hospital district under [sections 1 through 8] must provide for either the transfer of property from one hospital district to an existing hospital district or for the division of the existing hospital district as described in the petition, and must follow the procedures provided for in 7-2-2801, 7-2-2802, and [sections 1 through 8].

(3) A petition for a school district under [sections 1 through 8] must provide for the transfer of property to an existing school district as described in 20-6-105.

Section 3. Public hearing on alteration of service district boundaries. (1) Within 30 days after certification that a petition to change a hospital district boundary is sufficient as provided in [section 2], the board of the hospital district shall provide public notice pursuant to 7-1-2121 in the affected hospital district and in the city, town, resort community, or resort area district closest to the area impacted by the petition, and hold a public hearing in the area proposed to be transferred from one hospital district to another. The purpose of the public hearing is educating the public and soliciting public comment on the petition to change the hospital district boundary.

(2) For a petition to change a school district boundary, a hearing must be held as required in 20-6-105.

Section 4. Order for election -- registered electors entitled to vote. (1) After the public hearing held under [section 3] for a hospital district petition, the board of county commissioners in the county in which the hospital district is located shall order and give notice of an election to be held at the next election most immediately following the public hearing.

(2) Only registered electors within the area proposed to be transferred to an existing hospital district or within the area proposed to be separated from the existing hospital district may vote in the election.

(3) (a) The notice must require that the ballot contain the legal description of the proposed boundary change, together with any descriptive name or names for the property that may be in common use.

(b) In the case of the division of an existing hospital district into two districts, the notice must require that the ballot contain the legal descriptions for each district.

(4) The election must be conducted in conformance with Title 13, chapter 1, part 4.

Section 5. Effect of election -- resolution by board of county commissioners -- sharing of tax collections. (1) After the canvas of votes cast in an election held in accordance with [section 4], for a hospital district petition, if more than 50% of the votes cast approve the proposed hospital district boundary change, then the board of county commissioners shall, by resolution, declare the boundary to be changed to the new hospital districts as of July 1 immediately following the election. The resolution must contain the legal description of each of the hospital districts.

(2) (a) If an existing hospital district is divided into two districts, the number of voted mills in the existing district must be levied in each district.

(b) The voted mills must be levied in the newly separated district each year for the first 8 fiscal years following the division in subsection (1). The newly separated district may, but is not obligated to, levy mills pursuant to 7-34-2133.

(3) The newly separated district shall make payments to the existing hospital district in each of the first 8 fiscal years after the effective date in subsection (1) based on a percentage of the newly separated hospital district's tax collections as follows:

- (a) 70% of collections in the first year;
- (b) 60% of collections in the second through fourth years;
- (c) 40% of collections in the fifth and sixth years; and
- (d) 20% of collections in the seventh and eighth years.

Section 6. Notification of boundary change. (1) Upon implementation of a hospital district or school district boundary change under [sections 1 through 8], the county clerks and recorders in the affected county or counties shall notify the department of administration, the department of revenue, and the secretary of state of the boundary change.

(2) The department of revenue shall certify to the county the total taxable value within each county and each district to account for the transfer of the property.

Section 7. Effect on hospital districts. Hospital district boundaries impacted by a change of boundary under [sections 1 through 8] must be adjusted to ensure the affected property is relocated to the hospital district that is accessible to the affected property or to the new hospital district created by the petition.

Section 8. Withdrawn property subject to existing indebtedness. All taxable property within a hospital district or school district withdrawn under [sections 1 through 8] remains subject to taxation for any bonded indebtedness of the existing hospital district or school district as of the date the petition to alter the hospital district or school district boundary is submitted to the same extent it would have been subject if not withdrawn.

Section 9. Alteration of hospital district boundaries for inaccessibility. Hospital district boundaries may be altered due to an inability to access public services as provided in [sections 1 through 8].

Section 10. Definitions. For the purposes of [sections 10 through 14] and 20-6-105, the following definitions apply:

(1) "Advisory capacity" has the same meaning as provided in 2-15-102.

(2) "District operational levies" means property tax levies imposed on the property of a school district in support of the school district's budgeted operations. The term includes levies for all school district budgeted funds except the debt service fund. The term does not include countywide school levies.

(3) "Isolated pupil" means a pupil who is enrolled and admitted in a nonresident district contiguous to the pupil's resident school district under conditions specified in 20-5-321 and who is unable to access onsite services of a resident school district.

(4) "Reconciliation payment" means payment provided for in [section 12] from a resident school district to reimburse a school district of attendance for educating an isolated pupil of the resident school district.

(5) "Resident school district" means the school district where an isolated pupil maintains legal residence as defined in 1-1-215.

(6) "School district" means a school district created under Title 20, chapter 6.

(7) "School district of attendance" means the school district in which the isolated pupil is enrolled, admitted, and receiving onsite instruction.

(8) "Unable to access onsite services of a resident school district" means a case in which a pupil resides in a location where, because of geographic conditions between the pupil's home and the school that the pupil would attend within the resident school district, it is impractical to access onsite programs in the resident school district based on a travel time of more than 60 minutes under normal weather conditions over a publicly owned and maintained road using the shortest passable route while complying with all applicable speed limits to the school the pupil would attend in the resident school district.

Section 11. Qualification for reconciliation payment -- petition to qualify. (1) A school district that has enrolled and admitted an isolated pupil is qualified for a reconciliation payment as provided in this section when the isolated pupil is a resident of a contiguous school district that has a taxable value of at least \$100 million and a taxable value per-ANB amount that is greater than 1.5 times the taxable value per-ANB amount in the school district of attendance.

(2) (a) On payment of a processing fee of \$100 to the county superintendent of the county in which the resident school district of an isolated pupil is located, a school district that meets the requirements of subsection (1) may annually petition to qualify for a reconciliation payment calculated pursuant to [section 12].

(b) To qualify for a reconciliation payment in the subsequent fiscal year, the school district shall file a petition with the county superintendent no later than June 1. The petition must include supporting evidence for the qualification of the school district of attendance for a reconciliation payment, including the number of full-time equivalent isolated pupils who were enrolled and admitted to the school district of attendance and receiving onsite instruction in the current school year.

(3) (a) Upon receipt of a petition for a reconciliation payment, the county superintendent shall undertake a reasonable inquiry to assess the validity of the petition and eligibility for the reconciliation payment. The county superintendent shall exercise their best judgment and make a determination based on available and credible evidence, documentation, and applicable laws and policies. The county superintendent shall afford deference to the petitioner's assertions, ensuring that the evaluation process remains fair, transparent, and consistent with established criteria.

(b) The county superintendent may utilize resources and expertise from the office of public instruction, the department of revenue, and the department of transportation to verify the credibility of the evidence presented and to better ascertain the facts surrounding the petition.

(4) The county superintendent shall complete the inquiry and communicate the findings and determination, including a designation of the number of full-time equivalent isolated pupils enrolled in the district of attendance, to the petitioner and the resident school district within 30 calendar days from the date of receipt of the petition. If further information or clarification is required to make an informed determination, the county superintendent may request additional documentation or engage in dialogue with the petitioner within this timeframe.

(5) (a) An affected school district that disagrees with the county superintendent's determination may appeal to the district court by filing a verified petition with the court clerk and serving a copy of the petition on the county superintendent. The petition must clearly outline the objections of the school district to the basis of the county superintendent's determination and the objective criteria set forth in [sections 10 through 14].

(b) Filing and serving the petition stays the county superintendent's decision until the court reaches a final determination on the matter. The court shall schedule a hearing at the earliest possible convenience. The court shall review the record and determine whether the county superintendent's decision constituted an abuse of discretion. The proceedings must be summary and informal, and the court's decision must be considered final.

Section 12. Proportional reconciliation of taxable valuation – reimbursement for isolated pupils. (1) The resident school district shall impose a levy and make a reconciliation payment to the school district of attendance as calculated in this section when a petition under [section 11] has been granted to a school district of attendance by the applicable county superintendent.

(2) Following approval of the petition and not later than the first Tuesday in September, the school district of attendance shall notify the resident school district of the mills budgeted to be imposed by the school district of attendance

for district operational levies pursuant to its final budget adopted in compliance with 20-9-131.

(3) The resident school district shall calculate and impose levies on all of its taxable value sufficient to generate the amount of the reconciliation payment. The reconciliation payment must be incorporated into the tuition budget of the district of residence. The amount of the reconciliation payment must be calculated by:

(a) multiplying the number of full-time equivalent isolated pupils of the resident school district in the prior year as approved by the county superintendent pursuant to [section 11(4)] by the mill value per-ANB amount determined pursuant to subsection (4); and

(b) multiplying the result of subsection (3)(a) by the number of mills reported by the district of attendance under subsection (2).

(4) The mill value per-ANB amount for the resident school district under subsection (3)(a) must be calculated by the office of public instruction and reported by May 1 with the information required in 20-9-369(1)(a) to the resident school district and to the school district of attendance based on the certified taxable value of the resident school district for the prior school fiscal year divided by the resident school district's budgeted ANB in the prior school fiscal year.

(5) Revenue generated from the reconciliation payment levy imposed on the resident school district pursuant to subsection (4) must be deposited in the tuition fund of the resident school district and used solely for reconciliation payments to the district of attendance.

(6) By December 31, the resident school district shall pay at least one-half of the reconciliation payment provided for in this section to the school district of attendance. The remaining obligation must be paid by June 15 of the same fiscal year.

(7) Upon receipt of the reconciliation payment, a school district of attendance shall deposit the payment in the school district's flexibility fund or any other budgeted funds in the discretion of the trustees.

Section 13. Advisory council. (1) A school district with an enrollment of isolated pupils comprising 5% or more of its budgeted ANB shall establish an advisory council dedicated to fostering open dialogue and collaboration on matters that impact isolated pupils and other nonresident pupils from the areas in which isolated pupils reside. The council shall serve in an advisory capacity as a vital forum for listening to and voicing the concerns and insights of parents, guardians, and community members regarding the educational experiences of isolated pupils.

(2) The board of trustees of the district of attendance shall appoint members to the advisory council following a public notice process that invites community participation and expressions of interest. The size of the council, the terms of service, and specific responsibilities must be outlined by district policy. A majority of the council's members must be parents or legal guardians of isolated pupils. The board may appoint other stakeholders at its discretion.

(3) The agenda for regular meetings of the board may include, at the council's request, a dedicated item for a report from the advisory council.

Section 14. Section 20-6-105, MCA, is amended to read:

"20-6-105. Transfer of territory from one district to another – hearing on effects of proposed transfer – burden of proof – standard of proof – appeal to district court. (1) ~~(a) Except as provided in 20-6-214, 20-6-215, 20-6-308, and 20-6-322, and subsections (1)(b) and (1)(c) of this section,~~ a petition to transfer territory from one school district to another may be presented to the county superintendent if:

(i)(a) the petition is signed by 60% of the registered electors qualified to vote at general elections in the territory proposed for transfer;

(ii)(b) the territory to be transferred is contiguous to the district to which it is to be attached, includes taxable property, and has school-age children living in it;

(iii)(c) the territory to be transferred is not located within 3 miles, over the shortest practicable route, of an operating school in the district from which it is to be transferred; and

(iv)(d) the board of trustees of the school district that would receive the territory has approved the proposed transfer by a resolution adopted by a majority of the members of the board of trustees at a meeting for which proper notice was given.

~~(b) A petition to transfer territory to or from a K-12 district may not be presented to a county superintendent unless both school boards and the county superintendents have agreed in writing.~~

~~(c) Registered voters within the exterior boundaries of school districts that consolidated during the years 2004 to 2008 may petition for changes in their boundaries under the law in effect on July 1, 2005.~~

(2) Once a petition to transfer territory has been filed, an additional petition to transfer that territory may not be filed for ~~4 years~~ *1 full fiscal year* unless the county superintendents have agreed in writing.

(3) The petition for a transfer of territory must be delivered to the county superintendent and must:

(a) provide a legal description of the territory that is requested to be transferred and a description of the district to which the territory is to be transferred;

(b) state the reasons why the transfer is requested; and

(c) state the number of school-age children residing in the territory.

(4) If both the trustees of the receiving and transferring school districts have approved the proposed territory transfer in writing, the county superintendent shall grant the transfer.

(5) For any petition that meets the criteria specified in subsection (1) and contains the information required by subsection (3) but that has not been approved in writing by the board of trustees of the school district that would transfer the territory, the county superintendent shall:

(a) not more than 40 days after receipt of the petition, set a place, date, and time for a hearing to consider the petition; and

(b) give notice of the place, date, and time of the hearing. The notice must be posted in the districts affected by the petition for the transfer of territory in the manner prescribed in this title for notices for school elections, with at least one notice posted in the territory to be transferred. Notice must also be delivered to the board of trustees of the school district from which the territory is to be transferred.

(6) The county superintendent shall conduct a hearing as scheduled, and any resident, taxpayer, or representative of the receiving or transferring district must, upon request, be heard. At the hearing, the petitioners have the initial burden of presenting evidence on the proposed transfer's effect on:

(a) the educational opportunity for the students in the receiving and transferring districts, including but not limited to:

(i) class size;

(ii) ability to maintain demographic diversity;

(iii) local control;

(iv) parental involvement; and

(v) the capability of the receiving district to provide educational services;

(b) student transportation, including but not limited to:

(i) safety;

(ii) cost; ~~and~~

(iii) travel time of students; *and*

(iv) *whether there are isolated pupils in the territory proposed for transfer;*

(c) the economic viability of the proposed new districts, including but not limited to:

(i) the existence of a significant burden on:

(A) *if the transfer is approved*, the taxpayers of the district from which the territory will be transferred; *or*

(B) *if the transfer is rejected*, the taxpayers of the district to which the territory is to be transferred;

(ii) the significance of any loss in state funding for the students in both the receiving and transferring districts;

(iii) the viability of the future bonding capacity of the receiving and transferring districts, including but not limited to the ability of the receiving district and the transferring district to meet minimum bonding requirements;

(iv) the ability of the receiving district and the transferring district to maintain sufficient reserves; and

(v) the cumulative effect of other transfers of territory out of the district in the previous 8 years on the taxable value of the district from which the territory is to be transferred. In cases where the cumulative effect of other transfers of territory out of the district in the previous 8 years is equal to or greater than 25% of the district's taxable value, the following additional factors must be considered and weighed in the decision:

(A) the district's rate of passage of discretionary levies placed before the voters over the previous 8 years;

(B) the district's reduction or elimination of instructional staff or programs over the previous 8 years; and

(C) any increase in district taxes over the previous 8 years and the likely increase in district taxes if the transfer is granted.

(7) After receiving evidence from both the proponents and opponents of the proposed territory transfer on the effects described in subsection (6), the county superintendent shall, within 30 days after the hearing, issue findings of fact, conclusions of law, and an order.

(8) If, based on a preponderance of the evidence, the county superintendent determines that the evidence on the effects described in subsection (6) supports a conclusion that a transfer of the territory is in the best and collective interest of students in the receiving and transferring districts and does not negatively impact the ability of the districts to serve those students, the county superintendent shall grant the transfer. If the county superintendent determines that, based on a preponderance of the evidence presented at the hearing, a transfer of the territory is not in the best and collective interest of students in the receiving and transferring districts and will negatively impact the ability of the districts to serve those students, the county superintendent shall deny the territory transfer.

(9) The decision of the county superintendent is final 30 days after the date of the decision unless it is appealed to the district court by a resident, taxpayer, or representative of either district affected by the petitioned territory transfer. The county superintendent's decision must be upheld unless the court finds that the county superintendent's decision constituted an abuse of discretion under this section. *The county superintendent shall notify the department of revenue of the approval of a petition to transfer territory from one school district to another.*

(10) Whenever a petition to transfer territory from one district to another district creates a joint district or affects the boundary of an existing joint district, the petition to transfer territory must be delivered to the county superintendent of the county in which the territory proposed to be transferred is located. The county superintendent shall notify any other county superintendents of counties with districts affected by the petition, and the duties prescribed in this section for the county superintendent must be performed jointly. If the number of county superintendents involved is an even number, the county superintendents shall jointly appoint an additional county superintendent from an unaffected county to join them in conducting the hearing required in subsection (6) and in issuing the decision required in subsection (8). The decision issued under subsection (8) must be made by a majority of the county superintendents.

(11) A petition seeking to transfer territory out of or into a K-12 district must propose the transfer of territory for both elementary and high school purposes. In the case of a proposed transfer out of or into a K-12 district, a petition that fails to propose the transfer of territory for both elementary and high school purposes is invalid for the purposes of this section.

(12) If a petition to transfer territory is granted under this section, for the 3 years immediately following the transfer:

(a) the taxable value of territory transferred must be divided equally between the school district from which the territory was transferred and the school district to which the property was transferred;

(b) when certifying taxable values pursuant to 15-10-202, the department of revenue shall include half of the certified value of the transferred territory in each school district's certified taxable value;

(c) each school district shall calculate the mills required for its district operational levies, as defined in [section 10], based on the certified taxable value provided under subsection (12)(b); and

(d) when levying taxes for district operational levies pursuant to 20-9-142, the county commissioners shall fix and levy one-half of the number of mills for each district's operational levies on the full taxable value of all property within the transferred territory.

(13) (a) When a petition to transfer territory has been granted for a school district that has paid a reconciliation payment to another school district under [section 12]:

(i) the school district to which the territory has been transferred shall budget and impose a levy for 3 consecutive years following the transfer to generate revenue equal to the most recent reconciliation payment it received from the district from which the territory has been transferred; and

(ii) the school district imposing the levy shall deposit the revenue in its tuition fund and pay the district from which the territory was transferred an amount equal to the revenue raised in subsection (13)(a)(i) for 3 consecutive years following the transfer, with at least half of the annual payment made by December 31 and the remainder by June 15 of the same fiscal year.

(b) The district from which the territory is transferred shall deposit the received payment in its flexibility fund or allocate it among its budgeted funds as determined by the trustees."

Section 15. Codification instruction. (1) [Sections 1 through 8] are intended to be codified as an integral part of Title 7, chapter 2, and the provisions of Title 7, chapter 2, apply to [sections 1 through 8].

(2) [Section 9] is intended to be codified as an integral part of Title 7, chapter 34, part 21, and the provisions of Title 7, chapter 34, part 21, apply to [section 9].

(3) [Sections 10 through 13] are intended to be codified as an integral part of Title 20, chapter 6, part 1, and the provisions of Title 20, chapter 6, part 1, apply to [sections 10 through 13].

Section 16. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 17. Effective date. [This act] is effective on passage and approval.

Section 18. Applicability. [Sections 10 through 14] apply to school years beginning on or after July 1, 2025.

Approved May 12, 2025

CHAPTER NO. 594

[SB 278]

AN ACT REVISING EDUCATION LAWS RELATED TO ADVANCED OPPORTUNITIES; ESTABLISHING ADVANCED OPPORTUNITY FACILITATORS AND DEFINING THE TERM; ALLOWING A SCHOOL DISTRICT EMPLOYING AN ADVANCED OPPORTUNITY FACILITATOR TO UTILIZE A PORTION OF ITS ADVANCED OPPORTUNITY AID IN PAYING THE FACILITATOR AND RECEIVE A QUALITY EDUCATOR PAYMENT FOR THE ADVANCED OPPORTUNITY FACILITATOR; AMENDING SECTIONS 20-7-1503, 20-7-1506, AND 20-9-327, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-7-1503, MCA, is amended to read:

“20-7-1503. Definitions. As used in this part, the following definitions apply:

(1) “Advanced opportunity” means any course, exam, or experiential, online, or other learning opportunity that is incorporated in a district’s advanced opportunity plan and that is designed to advance each qualifying pupil’s opportunity for postsecondary career and educational success.

(2) “Advanced opportunity aid” means, for each fiscal year:

(a) for an elementary district, 4.5% of the district’s total quality educator payment defined in 20-9-306 in the prior year;

(b) for a high school district, 30% of the district’s total quality educator payment defined in 20-9-306 in the prior year; and

(c) for a K-12 district, 18% of the district’s total quality educator payment defined in 20-9-306 in the prior year.

(3) “Advanced opportunity facilitator” means an individual employed by a school district who coordinates between the school district, a qualifying pupil and the pupil’s family, postsecondary institutions, employers, industry associations, community organizations, or any other individual or entity that provides an advanced opportunity.

~~(3)~~(4) “Advanced opportunity plan” means a plan adopted by a board of trustees of a district that provides advanced opportunities for the pupils of the district.

~~(4)~~(5) “District” means a school district as defined in 20-6-101.

(5)(6) “Qualifying pupil” means a pupil, as defined in 20-1-101, that is enrolled and admitted by a district qualified for advanced opportunity aid under 20-7-1506(3) who is in grades 6 through 12.”

Section 2. Section 20-7-1506, MCA, is amended to read:

“20-7-1506. Incentives for creation of advanced opportunity programs. (1) A district that satisfies the conditions of subsection (2) and is qualified by the board of public education pursuant to subsection (3) is eligible for the funding and flexibilities in subsections (4) and (5).

(2) (a) To qualify for the funding and flexibilities in subsections (4) and (5), the board of trustees of a district shall submit an application that has been approved by motion of the board and signed by the presiding officer to the board of public education for approval of an advanced opportunity program on a form provided by the superintendent of public instruction.

(b) The school board’s application must include a strategic plan with appropriate planning horizons for implementation, measurable objectives to ensure accountability, and planned strategies to:

(i) develop an advanced opportunity plan for each participating pupil from grades 6 through 12 that fosters individualized pathways for career and postsecondary educational opportunities and that honors individual interests, passions, strengths, needs, and culture and is supported through relationships among teachers, family, peers, the business community, postsecondary education officials, and other community stakeholders;

(ii) embed community-based, experiential, online, and work-based learning opportunities and foster a learning environment that incorporates both face-to-face and virtual connections; and

(iii) ensure equality of educational opportunity to participate by all qualifying pupils of the district.

(3) The board of public education shall:

(a) establish the opening and closing dates for receipt of applications and annual reports;

(b) no later than January 31, qualify for the subsequent school year nonparticipating districts that submit an application meeting the requirements of subsection (2) for the funding in subsection (4) and the flexibilities in subsection (5);

(c) no later than January 31, requalify for the subsequent school year participating districts that submit an annual report demonstrating continued qualification for funding under this section and including a report of progress toward measurable objectives under the district’s advanced opportunity plan and any updates to the plan;

(d) limit the districts qualified under subsections (3)(b) and (3)(c) based on the appropriation available in the subsequent year and on the order of date received, after which further applications are to be deferred for consideration in a subsequent year, in the order of date received. An application deferred for consideration in a subsequent year due to lack of funding must be annually updated each year after more than 1 full fiscal year has passed from the date of original submission of the application in order for the application to retain its priority by original date received.

(e) on or before September 15 of even-numbered years, report to the education interim committee pursuant to 5-11-210 on the progress made by districts operating under approved advanced opportunity plans. The report must address, at a minimum:

(i) the number of pupils benefiting from advanced opportunity aid;

(ii) the number and type of credits and certifications or credentials earned by pupils that have been paid for by the program;

(iii) projected growth in the program and funding needs for the next biennium; and

(iv) any issues with the program reported by pupils, parents, districts, postsecondary institutions, or examination administrators and how these issues are being addressed and whether the issues require legislative action.

(4) The superintendent of public instruction shall provide advanced opportunity aid to each district qualified by the board of public education under subsection (3) by October 1. The aid under this section must be distributed directly to the school district's flexibility fund under 20-9-543.

(5) Advanced opportunity aid may be expended on any qualifying pupil by the district subject to the following conditions:

(a) at least 75% of a district's annual distribution of advanced opportunity aid must be spent or encumbered to address out-of-pocket costs that would otherwise, in the absence of such expenditure, be assumed by a qualifying pupil or the pupil's family as a result of participation in an advanced opportunity. The trustees have full discretion to allocate expenditures among all pupils of the district or any select group of pupils, using any reasonable method they consider appropriate in their full discretion to meet the individual needs of each pupil who pursues an advanced opportunity. The trustees may create free district initiatives of their own that satisfy the conditions of this subsection (5)(a). Permissible expenditures include but are not limited to:

(i) dual credit tuition at any institution under authority of the board of regents;

(ii) exam fees used for postsecondary advancement, placement, or credit, including but not limited to exam fees associated with the ACT, SAT, CLEP, career advancement, international baccalaureate, and advanced placement;

(iii) fees charged by and any out-of-pocket costs of any business providing work-based learning opportunities to a qualifying pupil of the district, including the cost of workers' compensation insurance for work-based learning opportunities;

(iv) exam and other fees of any industry-recognized credential or license for which a qualifying pupil is eligible as a result of participation in an advanced opportunity;

(v) the costs of participation for qualifying pupils in out-of-school enrichment activities that, in the discretion of the trustees, advance the pupil's opportunity for postsecondary career and educational success; ~~and~~ *and*

(vi) the costs of participation for qualifying pupils that are identified as necessary, in the discretion of the district and upon request of a qualifying pupil, to maximize the benefit of an advanced opportunity for a qualifying pupil; *and*

(b) advanced opportunity aid remaining that is not expended or carried forward for the purposes of subsection (5)(a) may be spent by the district to:

(i) provide any K-12 career and vocational/technical education course offered by the district; *or*

(ii) *pay for the costs of employing an advanced opportunity facilitator as defined in 20-7-1503.*

(6) A district qualified for funding under subsection (3) may supplement state funding of advanced opportunity aid with matched expenditures from its adopted adult education budget, not to exceed 25% of the district's advanced opportunity aid. The conditions under subsection (5) apply to any matched expenditures funded under this subsection (6)."

Section 3. Section 20-9-327, MCA, is amended to read:

“20-9-327. Quality educator payment. (1) (a) The state shall provide a quality educator payment to:

- (i) public school districts, as defined in 20-6-101 and 20-6-701;
- (ii) special education cooperatives, as described in 20-7-451;
- (iii) the Montana school for the deaf and blind, as described in 20-8-101;
- (iv) correctional facilities, as defined in 41-5-103; and
- (v) the Montana youth challenge program.

(b) A special education cooperative that has not met the requirements of 20-7-454 may not be funded under the provisions of this section except by approval of the superintendent of public instruction.

(2) (a) The quality educator payment for special education cooperatives must be distributed directly to those entities by the superintendent of public instruction.

(b) The quality educator payment for the Montana school for the deaf and blind must be distributed to the Montana school for the deaf and blind.

(c) The quality educator payment for Pine Hills correctional facility and the facility under contract with the department of corrections for female, as defined in 1-1-201, youth must be distributed to those facilities by the department of corrections.

(d) The quality educator payment for the Montana youth challenge program must be distributed to that program by the department of military affairs.

(3) The quality educator payment is calculated as provided in 20-9-306, using the number of full-time equivalent educators, as reported to the superintendent of public instruction for accreditation purposes in the previous school year, each of whom:

(a) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (1) of this section in a position that requires an educator license in accordance with the administrative rules adopted by the board of public education;

(b) (i) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-24-301, 37-25-302, 37-39-308, 37-39-309, or 37-39-311; and

(ii) is employed by an entity listed in subsection (1) to provide services to students; or

(c) (i) holds an American Indian language and culture specialist license; and

(ii) is employed by an entity listed in subsection (1) to provide services to students in an Indian language immersion program pursuant to Title 20, chapter 7, part 14; or

(d) *is employed by an entity listed in subsection (1) as an advanced opportunity facilitator.”*

Section 4. Coordination instruction. If both House Bill No. 252 and [this act] are passed and approved and if House Bill No. 252 contains a section amending 20-9-327, then [section 3 of this act], amending 20-9-327, is void and the section in House Bill No. 252 amending 20-9-327 must be amended to include a new subsection (3)(b)(iv) that reads as follows:

“(iv) is employed by an educational entity listed in subsection (1) as an advanced opportunity facilitator.”

Section 5. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Sections 1 and 2] are effective July 1, 2025.

Approved May 13, 2025

CHAPTER NO. 595

[SB 301]

AN ACT GENERALLY REVISING UTILITY LINES AND FACILITIES LAWS; ALLOWING THE COMMISSION TO GRANT A PUBLIC UTILITY A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR ELECTRIC TRANSMISSION FACILITY CONSTRUCTION; ESTABLISHING OPTIONAL RATEMAKING PROCEDURES AND TIMELINES; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, advanced transmission technology offers multiple advantages, including increased capacity on existing transmission infrastructure, significantly reduced wildfire risk, especially when an installed powerline conductor has a thermal expansion coefficient no greater than that of an advanced composite conductor, and improved grid reliability, and is a cost-effective solution to Montana's current congestion and curtailments of transmission pathways; and

WHEREAS, the intention of this legislation is to expedite the necessary and overdue transmission upgrades needed to serve the ever-increasing demand of power; and

WHEREAS, the Public Service Commission has the decisionmaking authority to determine the balance between modernizing the grid to increase reliability and identifying what costs are reasonable or unreasonable to ensure ratepayer affordability.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 3], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Advanced transmission technology" means a technology that increases the capacity, efficiency, and reliability of an existing or new transmission facility. For the purposes of [sections 1 through 3], the term applies to the following technology:

- (a) underground cables;
- (b) advanced conductor technology, such as advanced composite conductors, high temperature low-sag conductors, and fiber optic temperature sensing conductors;
- (c) high-capacity ceramic electric wire, connectors, and insulators;
- (d) high-voltage direct-current technology;
- (e) flexible alternate-current transmission systems;
- (f) enhanced power device monitoring;
- (g) power electronics and related software, including real-time monitoring and analytical software; and

~~(k)~~(h) any other technologies the commission considers appropriate.

(2) "Certificate of public convenience and necessity" means a written authorization to operate issued by the commission for constructing an electric transmission facility.

(3) "Department" means the department of environmental quality provided for in 2-15-3501.

(4) "Transmission facility" means those facilities that are controlled or operated by a utility and used to provide transmission services as determined by the federal energy regulatory commission and the public service commission. The term includes advanced transmission technology.

Section 2. Certificate of public convenience and necessity for transmission lines and facilities -- rulemaking. (1) A public utility, as defined in 69-3-101, may request a certificate of public convenience and necessity from the commission prior to commencing actual construction work on an electric transmission facility that is rated higher than 69 kilovolts.

(2) If the utility requests a certificate of public convenience and necessity from the commission pursuant to subsection (1), the department may not make a determination regarding the requirements of subsections 75-20-301(1)(a), (1)(d), and (1)(f).

(3) (a) Upon receiving a request from a public utility or entity, the commission shall determine within 300 days whether the construction of the proposed transmission facility is in the public interest and may grant or deny the certificate of public convenience and necessity.

(b) In making a determination, the commission shall consider:

(i) the need for the proposed transmission facility to ensure reliable service for customers;

(ii) the ability of the proposed transmission facility to improve Montana utility customer access to reliable and cost-effective electric generation or storage facilities;

(iii) the anticipated costs and benefits of the proposed facility;

(iv) the use of advanced transmission technology; and

(v) any other factors deemed appropriate by the commission.

(4) A commission-approved certificate of public convenience and necessity may satisfy the requirements set forth in 75-20-301(1)(a), (1)(d), and (1)(f), when the department considers siting applications for proposed transmission facilities.

(5) The commission shall adopt rules for the implementation of this section.

(6) Nothing in this section alters the requirements of Title 75, chapter 20.

(7) Nothing in this section requires the public service commission to approve recovery of costs.

Section 3. Advanced cost approval of transmission and related facilities. (1) A public utility may apply to the commission for advanced cost approval of transmission lines and related facilities not yet procured, provided the utility complies with [section 2].

(2) Within 45 days of a utility's application for advanced cost approval, the commission shall determine if the application is adequate and in compliance with the commission's minimum filing requirements. If the commission determines the application is inadequate, it shall explain the deficiencies.

(3) The commission shall issue an order within 90 days after receiving an application for transmission lines and related facilities, unless the commission determines that extraordinary circumstances warrant additional time.

(4) Subject to [section 2(2)] and after the department issues the certificate of compliance pursuant to Title 75, chapter 20, as applicable, the commission may:

(a) (i) approve or deny, in whole or in part an application for advanced cost approval of a transmission line and facility to give the public utility a presumption in any future rate proceeding that the actual construction costs for that line are prudent if the actual construction costs are less than or equal to the approved costs; or

(ii) to the extent actual costs are greater than approved costs, there is no presumption the actual construction costs for that line are prudent, and the commission shall determine if the costs are prudent and recoverable; and

(b) consider all relevant information until the administrative record in the proceeding is closed for the commission's evaluation of an application.

Section 4. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 69, chapter 4, part 1, and the provisions of Title 69, chapter 4, part 1, apply to [sections 1 through 3].

Section 5. Effective date. [This act] is effective on passage and approval.

Approved May 12, 2025

CHAPTER NO. 596

[SB 316]

AN ACT REVISING DISABILITY RETIREMENT BENEFIT PROVISIONS FOR THE MUNICIPAL POLICE OFFICERS' RETIREMENT SYSTEM AND THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM; AMENDING SECTIONS 19-2-406, 19-9-903, AND 19-13-803, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 19-2-406, MCA, is amended to read:

"19-2-406. Disability retirement – application – determination – benefit conversion – rules. (1) (a) An active or inactive member may apply for disability retirement in a manner prescribed by the board. However, an application may also be filed on the member's behalf by the head of the office or department in which the member is or was last employed, by any other individual, or by the board.

(b) The application must be filed within 4 months after the member's termination from employment unless the member is disabled continuously from the date of termination from employment to the date of the application.

(2) The board shall determine whether a member has become disabled. In the discharge of its duty regarding determinations, the board, any member of the board, or any authorized representative of the board may order medical examinations, conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary as evidence in connection with a claim for disability retirement. Subpoenas must be issued and enforced pursuant to 2-4-104 of the Montana Administrative Procedure Act.

(3) The board shall adopt rules requiring employers to identify and explain the essential elements of a member's position, any accommodations that were or can be made in compliance with the Americans With Disabilities Act of 1990 (42 U.S.C. 12101, et seq.), and the effectiveness of the accommodations.

(4) The board shall retain medical personnel to advise it in assessing the nature and extent of disabling conditions while reviewing claims for disability retirement.

(5) ~~The disability retirement benefit paid to a member of the defined benefit plan must be converted to a service retirement benefit, without recalculation of the monthly benefit amount, when the member has attained normal retirement age. The board shall notify the member in writing as to the change in status~~ *The disability retirement benefit paid to a member of the defined benefit plans provided for in Title 19, chapters 9 and 13, remains a disability retirement benefit when the member attains normal retirement age, but the disability retirement benefit is no longer subject to a medical examination of the member."*

Section 2. Section 19-9-903, MCA, is amended to read:

“19-9-903. Amount of disability retirement benefit – continuation of benefit after death of member. (1) A member who becomes disabled:

(a) before completing 20 years of membership service must receive a disability retirement benefit equal to one-half the member's final average compensation; or

(b) after completing 20 years or more of membership service must receive a disability retirement benefit equal to 2.5% of the member's final average compensation for each year of service credit.

(2) *A member who becomes disabled as a direct result of the member's service in the line of duty:*

(a) *before completing 20 years of membership service must receive a line of duty disability retirement benefit equal to one-half of the member's final average compensation; or*

(b) *after completing 20 years or more of membership service must receive a line of duty disability retirement benefit equal to 2.5% of the member's final average compensation for each year of service credit.*

(2)(3) Upon the death of a member receiving a disability retirement benefit under this section, the member's surviving spouse or dependent child is eligible for benefits as provided in 19-9-804.”

Section 3. Section 19-13-803, MCA, is amended to read:

“19-13-803. Amount of disability retirement benefit. (1) A member who becomes disabled:

(a) before completing 20 years of membership service must receive a disability retirement benefit equal to one-half the member's highest average compensation;

(b) after completing 20 years or more of membership service must receive a disability retirement benefit equal to 2.5% of the member's highest average compensation for each year of service credit, but no less than one-half of the member's highest average compensation.

(2) *A member who becomes disabled as a direct result of the member's service in the line of duty:*

(a) *before completing 20 years of membership service must receive a line of duty disability retirement benefit equal to one-half of the member's highest average compensation; or*

(b) *after completing 20 years or more of membership service must receive a line of duty disability retirement benefit equal to 2.5% of the member's highest average compensation for each year of service credit but no less than one-half of the member's highest average compensation.*

(2)(3) Upon the death of a member receiving a disability retirement benefit under this section, the member's surviving spouse or dependent child is eligible for the benefits provided pursuant to 19-13-704(3).”

Section 4. Effective date. [This act] is effective on passage and approval.

Section 5. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to members of the municipal police officers' retirement system and the firefighters' unified retirement system who become disabled as a direct result of the member's service in the line of duty on or before January 1, 2025.

Approved May 12, 2025

CHAPTER NO. 597

[SB 319]

AN ACT GENERALLY REVISING LAWS RELATED TO DOULAS; PROVIDING FOR LICENSURE AND REGULATION OF DOULAS; ESTABLISHING LICENSURE REQUIREMENTS; ALLOWING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PROVIDE MEDICAID COVERAGE OF LICENSED DOULA SERVICES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-1-401 AND 53-6-101, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 4], the following definitions apply:

(1) “Antepartum” means the period of pregnancy prior to the end of pregnancy.

(2) “Department” means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(3) (a) “Doula” means a trained, nonmedical professional who provides continuous physical, emotional, and informational support to a pregnant woman during the antepartum, intrapartum, or postpartum period.

(b) The term does not include a traditional healing provider or a person providing services to a friend or family member.

(4) “Intrapartum” means the period of pregnancy after the onset of labor through delivery.

(5) “Postpartum” means the 12-month period beginning on the last day of the pregnancy.

(6) “Traditional healing provider” means an individual who provides traditional healing services in a manner that is recognized by an American Indian or Alaska Native tribe as being consistent with the tribe’s traditional healing practices.

(7) “Traditional healing services” means a system of culturally appropriate healing methods for physical, mental, and emotional healing.

Section 2. License requirements. (1) Beginning January 1, 2027, a person may not practice as a doula unless licensed under Title 37, chapter 1, and [sections 1 through 4].

(2) The department shall license a person as a doula if the person pays the fees prescribed by the department and:

(a) submits a completed application as required by the department;

(b) satisfactorily completes competencies that meet the requirements established by the department by rule;

(c) has not engaged in unprofessional conduct as defined in 37-1-410; and

(d) is not currently subject to any disciplinary proceedings.

(3) The department may issue a limited license to qualified individuals engaged in supervised professional experience as defined by rule.

Section 3. Exemptions. [Sections 1 through 4] do not prohibit a qualified member of another profession, business, educational program, or volunteer organization who is not licensed or certified or for whom there is no applicable code of ethics, including peer mentors, advocates, and coaches, from performing duties and services consistent with the person’s training, as long as the person does not represent by title that the person is engaging in the practice of doula care.

Section 4. Rulemaking. The department shall adopt rules necessary to carry out the provisions of [sections 1 through 4].

Section 5. Section 37-1-401, MCA, is amended to read:

“37-1-401. (Temporary) Uniform regulation for licensing programs without boards – definitions. As used in this part, the following definitions apply:

(1) “Complaint” means a written allegation filed with the department that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(2) “Department” means the department of labor and industry provided for in 2-15-1701.

(3) “Investigation” means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a complaint or other information before the department, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the department;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether the department should seek an injunction.

(4) “License” means permission in the form of a license, permit, endorsement, certificate, recognition, or registration granted by the state of Montana to engage in a business activity or practice at a specific level in a profession or occupation governed by:

(a) Title 37, chapter 2, part 6;

(b) Title 37, chapter 16, 40, 56, 60, 72, ~~or~~ 73, or [sections 1 through 4]; or

(c) Title 50, chapter 39, 74, or 76.

(5) “Profession” or “occupation” means a profession or occupation regulated by the department under the provisions of:

(a) Title 37, chapter 2, part 6;

(b) Title 37, chapter 16, 40, 49, 56, 60, 72, ~~or~~ 73, or [sections 1 through 4]; or

(c) Title 50, chapter 39, 74, or 76. (Terminates June 30, 2031--sec. 10, Ch. 628, L. 2023.)

37-1-401. (Effective July 1, 2031) Uniform regulation for licensing programs without boards – definitions. As used in this part, the following definitions apply:

(1) “Complaint” means a written allegation filed with the department that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(2) “Department” means the department of labor and industry provided for in 2-15-1701.

(3) “Investigation” means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a complaint or other information before the department, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the department;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether the department should seek an injunction.

(4) “License” means permission in the form of a license, permit, endorsement, certificate, recognition, or registration granted by the state of Montana to engage in a business activity or practice at a specific level in a profession or occupation governed by:

(a) Title 37, chapter 16, 40, 56, 60, 72, ~~or~~ 73, or [sections 1 through 4]; or

(b) Title 50, chapter 39, 74, or 76.

(5) "Profession" or "occupation" means a profession or occupation regulated by the department under the provisions of:

- (a) Title 37, chapter 16, 40, 49, 56, 60, 72, ~~or 73~~, or [sections 1 through 4]; or
- (b) Title 50, chapter 39, 74, or 76."

Section 6. Section 53-6-101, MCA, is amended to read:

"53-6-101. Montana medicaid program – authorization of services.

(1) There is a Montana medicaid program established for the purpose of providing necessary medical services to eligible persons who have need for medical assistance. The Montana medicaid program is a joint federal-state program administered under this chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. The department shall administer the Montana medicaid program.

(2) The department and the legislature shall consider the following funding principles when considering changes in medicaid policy that either increase or reduce services:

(a) protecting those persons who are most vulnerable and most in need, as defined by a combination of economic, social, and medical circumstances;

(b) giving preference to the elimination or restoration of an entire medicaid program or service, rather than sacrifice or augment the quality of care for several programs or services through dilution of funding; and

(c) giving priority to services that employ the science of prevention to reduce disability and illness, services that treat life-threatening conditions, and services that support independent or assisted living, including pain management, to reduce the need for acute inpatient or residential care.

(3) Medical assistance provided by the Montana medicaid program includes the following services:

(a) inpatient hospital services;

(b) outpatient hospital services;

(c) other laboratory and x-ray services, including minimum mammography examination as defined in 33-22-132;

(d) skilled nursing services in long-term care facilities;

(e) physicians' services;

(f) nurse specialist services;

(g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of age, in accordance with federal regulations and subsection (10)(b);

(h) ambulatory prenatal care for pregnant women during a presumptive eligibility period, as provided in 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;

(i) targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk pregnant women;

(j) services that are provided by physician assistants within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider;

(k) health services provided under a physician's orders by a public health department;

(l) federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2);

(m) routine patient costs for qualified individuals enrolled in an approved clinical trial for cancer as provided in 33-22-153;

(n) for children 18 years of age and younger, habilitative services as defined in 53-4-1103;

(o) services provided by a person certified in accordance with 37-2-318 to provide services in accordance with the Indian Health Care Improvement Act, 25 U.S.C. 1601, et seq.;

(p) fertility preservation services in accordance with 33-22-2103; and
(q) planned home births for women with a low risk of adverse birth outcomes, as established by the appropriate licensing board, that are attended by certified nurse-midwives licensed under Title 37, chapter 8, or direct-entry midwives licensed under Title 37, chapter 27. Coverage under this section includes prenatal care and postpartum care.

(4) Medical assistance provided by the Montana medicaid program may, as provided by department rule, also include the following services:

(a) medical care or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;

(b) home health care services[, including services provided by pediatric complex care assistants licensed pursuant to 37-2-603];

(c) private-duty nursing services;

(d) dental services;

(e) physical therapy services;

(f) mental health center services administered and funded under a state mental health program authorized under Title 53, chapter 21, part 10;

(g) clinical social worker services;

(h) prescribed drugs, dentures, and prosthetic devices;

(i) prescribed eyeglasses;

(j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;

(k) inpatient psychiatric hospital services for persons under 21 years of age;

(l) services of clinical professional counselors licensed under Title 37, chapter 39;

(m) services of a marriage and family therapist licensed under Title 37, chapter 39;

(n) hospice care, as defined in 42 U.S.C. 1396d(o);

(o) case management services, as provided in 42 U.S.C. 1396d(a) and 1396n(g), including targeted case management services for the mentally ill;

(p) services of psychologists licensed under Title 37, chapter 17;

(q) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C. 1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201;

(r) services of behavioral health peer support specialists certified under Title 37, chapter 39, provided to adults 18 years of age and older with a diagnosis of a mental disorder, as defined in 53-21-102;

(s) *services of doulas licensed under [sections 1 through 4];* and

~~(s)~~(t) any additional medical service or aid allowable under or provided by the federal Social Security Act.

(5) Services for persons qualifying for medicaid under the medically needy category of assistance, as described in 53-6-131, may be more limited in amount, scope, and duration than services provided to others qualifying for assistance under the Montana medicaid program. The department is not required to provide all of the services listed in subsections (3) and (4) to persons qualifying for medicaid under the medically needy category of assistance.

(6) In accordance with federal law or waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department may implement limited medicaid benefits, to be known as basic medicaid, for adult recipients who are eligible because they are receiving cash assistance, as defined in 53-4-201, as the specified caretaker relative of a dependent child and for all adult recipients of medical assistance only who are covered under a group related to a program providing cash assistance, as

defined in 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsection (3) but may include those optional services listed in subsections (4)(a) through (4)(s) that the department in its discretion specifies by rule. The department, in exercising its discretion, may consider the amount of funds appropriated by the legislature, whether approval has been received, as provided in 53-1-612, and whether the provision of a particular service is commonly covered by private health insurance plans. However, a recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage.

(7) The department may implement, as provided for in Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums, deductibles, and coinsurance for persons not otherwise eligible for medicaid.

(8) (a) The department may set rates for medical and other services provided to recipients of medicaid and may enter into contracts for delivery of services to individual recipients or groups of recipients.

(b) The department shall strive to close gaps in services provided to individuals suffering from mental illness and co-occurring disorders by doing the following:

(i) simplifying administrative rules, payment methods, and contracting processes for providing services to individuals of different ages, diagnoses, and treatments. Any adjustments to payments must be cost-neutral for the biennium beginning July 1, 2017.

(ii) publishing a report on an annual basis that describes the process that a mental health center or chemical dependency facility, as those terms are defined in 50-5-101, must utilize in order to receive payment from Montana medicaid for services provided to individuals of different ages, diagnoses, and treatments.

(9) The services provided under this part may be only those that are medically necessary and that are the most efficient and cost-effective.

(10) (a) The amount, scope, and duration of services provided under this part must be determined by the department in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended.

(b) The department shall, with reasonable promptness, provide access to all medically necessary services prescribed under the early and periodic screening, diagnosis, and treatment benefit, including access to prescription drugs and durable medical equipment for which the department has not negotiated a rebate.

(11) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

(12) (a) Prior to enacting changes to provider rates, medicaid waivers, or the medicaid state plan, the department shall report this information to the following committees:

- (i) the children, families, health, and human services interim committee;
- (ii) the legislative finance committee; and
- (iii) the health and human services budget committee.

(b) In its report to the committees, the department shall provide an explanation for the proposed changes and an estimated budget impact to the department over the next 4 fiscal years.

(13) If available funds are not sufficient to provide medical assistance for all eligible persons, the department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical services made available under the Montana medicaid program after taking into consideration

the funding principles set forth in subsection (2). (Subsection (3)(o) terminates September 30, 2025--sec. 1, Ch. 298, L. 2023; bracketed language in subsection (4)(b) terminates June 30, 2031--sec. 10, Ch. 628, L. 2023.)”

Section 7. Transition. An applicant who serves as an unlicensed doula for a period prior to January 1, 2026, may be licensed if the applicant provides sufficient evidence to the department of labor and industry that the applicant’s experience providing doula services is equivalent to the requirements for licensure defined by department rule. To be eligible for licensure under this section, an individual shall demonstrate the evidence to the department on or before December 31, 2027.

Section 8. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 37, and the provisions of Title 37 apply to [sections 1 through 4].

Section 9. Effective date. [This act] is effective January 1, 2026.

Section 10. Termination. [This act] terminates December 31, 2030.

Approved May 12, 2025

CHAPTER NO. 598

[SB 326]

AN ACT REVISING THE MONTANA ECONOMIC DEVELOPMENT INDUSTRY ADVANCEMENT ACT FILM TAX CREDITS; REVISING ELIGIBLE PRODUCTIONS AND POSTPRODUCTION ACTIVITY; PROVIDING AN INCREASED CREDIT FOR HIRING VETERANS AND ENROLLED TRIBAL MEMBERS; EXTENDING THE CREDITS THROUGH 2045; ALLOCATING THE CREDIT TO CERTAIN ENTITIES; PROVIDING THAT UNUSED ALLOCATED CREDITS MAY BE CLAIMED BY OTHER ENTITIES FOR A FEE; DESIGNATING THE FEE FOR FILM INDUSTRY WORKFORCE TRAINING; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-31-1002, 15-31-1003, 15-31-1004, 15-31-1007, 15-31-1009, AND 15-31-1010, MCA; REPEALING SECTIONS 1 THROUGH 9, CHAPTER 509, LAWS OF 2021; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Media manufacturing industry workforce training account. (1) There is an account in the state special revenue fund provided for in 17-2-102 known as the film industry workforce training account.

(2) The fee collected under 15-31-1010(2)(c) must be deposited in the account.

(3) The department of labor and industry shall use money in the account to provide workforce training for the film industry.

Section 2. Section 15-31-1002, MCA, is amended to read:

“15-31-1002. Purpose. (1) The purpose of this part is to enhance Montana’s economy by expanding film and related media production in the state, by increasing job opportunities for a broad array of workers, and by promoting the growth of small businesses. The objectives of this part are to:

- (a) advertise Montana as open for business to qualifying projects;
- (b) develop a broad spectrum of high-paying jobs in the state;
- (c) encourage investment of funds to finance media production in the state;
- (d) expand opportunities for existing Montana small businesses and for new small businesses that provide goods and services to qualified projects; and

(e) promote tourism in the state.

~~(2) The objectives in subsection (1) will best be achieved by offering tax incentives as provided in this part~~ *create a more resilient Montana economy by diversifying and driving local growth in the media manufacturing sector and ancillary supporting sectors by:*

(1) creating tax credit reservation allocations that put Montana businesses first;

(2) driving brick and mortar investment into permanent infrastructure in the state;

(3) increasing career pathway training and full-time equivalent jobs for a broad array of Montana resident workers;

(4) expanding a sustainable media manufacturing sector through film and related media production in the state; and

(5) limiting liability to the state.”

Section 3. Section 15-31-1003, MCA, is amended to read:

“15-31-1003. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) “Affiliate” means a subsidiary of which more than 50% of the voting stock is owned directly by the parent corporation or another member of the Montana combined group.

(2) “Base investment” means the amount expended by a production company as production expenditures and compensation incurred in this state that are directly used in a state-certified production.

(3) (a) “Compensation” means Montana wages, salaries, commissions, payments to a loan-out company subject to the provisions of subsection (3)(c), union benefits, fringe benefits, and any other form of remuneration paid to employees for personal services performed in this state.

(b) The term does not include compensation paid that is less than the minimum wage described in 39-3-409.

(c) The term includes payments to a loan-out company by a production company if the production company withheld and remitted Montana income tax at the highest marginal rate in effect under 15-30-2103 on all payments to the loan-out company for services performed in this state. The amount withheld is considered to have been withheld by the loan-out company on wages paid to its employees for services performed in this state. The amounts withheld must be allocated to the loan-out company’s employees based on the payments made to the loan-out company’s employees for services performed in Montana. For purposes of this chapter, loan-out company nonresident employees performing services in this state must be considered taxable nonresidents and the loan-out company is subject to income taxation in the tax year in which the loan-out company’s employees perform services in this state, notwithstanding any other provisions of Title 15. The withholding liability is subject to penalties and interest as provided in 15-1-216.

(d) With respect to a single crew member or production staff member, excluding an actor, director, producer, or writer, the portion of any compensation that exceeds \$500,000 for a single production is not included when calculating the base investment.

(e) All payments to a single employee and any legal entity in which the employee has any direct or indirect ownership interest are considered as having been paid to the employee and must be aggregated regardless of the means of payment or distribution.

(4) *“Domiciled company” means a corporation incorporated in the state or a partnership, limited liability company, or other business entity subject to tax under Title 15, chapter 30 or 31:*

(a) domiciled and headquartered in the state for a minimum of 1 year for the purpose of performing qualified production activities or qualified postproduction activities; and

(b) that maintains a minimum of 15 resident full-time equivalent jobs that pay wages above the state average median income and for which Montana income tax is withheld.

(4)(5) “Game platform” means the electronic delivery system used to launch or play an interactive game.

(5)(6) “Game sequel” means an interactive game that builds on the theme of a previously released interactive game, is distinguished by a new title, and features objectives or characters that are recognizably different from those in the original game.

(7) “Independent film production” means a state-certified production with a production budget approved by the department of commerce of \$3 million or less.

(6)(8) (a) “Loan-out company” means a personal service company contracted with and retained by a production company to provide individual personnel who are not employees of the production company, including actors, directors, producers, writers, production designers, production managers, costume designers, directors of photography, editors, casting directors, first assistant directors, second unit directors, stunt coordinators, and similar personnel, for performance of services used directly in a qualified production activity.

(b) The term does not include persons retained by a production company to provide tangible property or outside independent contractor services, such as catering, construction, trailers, equipment, and transportation.

(7)(9) “Multimarket commercial distribution” means paid commercial distribution that extends to markets outside the state.

(8)(10) (a) “Postproduction company” means a company that:

(i) maintains a business location physically located in this state;

(ii) is engaged in qualified postproduction activities;

(iii) meets the requirements of 15-31-1005(4); and

(iv) has been approved by the department of commerce to claim the credit provided for in 15-31-1009.

(b) The term does not include any form of business owned, affiliated, or controlled, in whole or in part, by a company or person that is in default on a tax obligation of the state, a loan made by the state, or a loan guaranteed by the state.

(9)(11) “Prereleased interactive game” means a new game, the offering of an existing game on a new game platform, or a game sequel that is in the developmental stages of production and that may be available to individuals for testing purposes but is not generally made available or distributed to consumers or to the general public.

(10)(12) (a) “Production company” means a company primarily engaged in qualified production activities that have been approved by the department of commerce.

(b) The term does not include any form of business owned, affiliated, or controlled, in whole or in part, by a company or person that is in default on a tax obligation of the state, a loan made by the state, or a loan guaranteed by the state.

(11)(13) (a) “Production expenditure” means a preproduction or production expenditure incurred in Montana that is directly used for a qualified production activity including:

(i) set construction and operation;

(ii) wardrobes, makeup, accessories, and related services;

(iii) costs associated with photography and sound synchronization expenditures, excluding license fees, incurred with Montana companies for sound recordings and musical compositions, lighting, or related services and materials;

(iv) editing and related services;

(v) rental of facilities and equipment;

(vi) leasing of vehicles, whether to be photographed or to transport people, equipment, or materials;

(vii) lodging costs, including hotel rooms and private housing rentals paid for by the production company;

(viii) per diem and living allowance paid to staff, cast, and crew members;

(ix) digital, film, or tape editing, film processing, transfers of film to tape or digital format, sound mixing, computer graphics services, special effects services, visual effects services, and animation services;

(x) airfare, if purchased through a Montana travel agency or travel company;

(xi) insurance costs and bonding, if purchased through a Montana insurance agency; and

(xii) other direct costs of producing the project in accordance with generally accepted entertainment industry practices and generally accepted accounting principles.

(b) The term does not include:

(i) compensation, which qualifies for the credit provided for in 15-31-1007(3)(b)(i) through ~~(3)(b)(iv)~~ (3)(b)(v);

(ii) production expenditures for footage shot outside the state;

(iii) marketing;

(iv) story rights;

(v) distribution; or

(vi) postproduction expenditures.

(14) *“Qualified Montana facility” means a media manufacturing facility of 10,000 or more square feet and measuring at least 25 feet from floor to truss that was constructed or renovated in the state on or after January 1, 2025, at a minimum capital expenditure of \$10 million for the primary purpose of engaging in the development of qualified production or postproduction activities and for which the owner is subject to tax under Title 15, chapter 30 or 31.*

~~(12)~~(15) *“Qualified Montana promotion” means a promotion of this state approved by the department of commerce and consisting of:*

(a) a qualified movie production that includes a 5-second static or animated logo that promotes Montana in the end credits for the life of the project and that includes a link to the official state of Montana website on the project’s website;

(b) a qualified television production that includes an embedded 5-second Montana promotion during each broadcast worldwide for the life of the project and that includes a link to the official state of Montana website on the project’s website;

(c) a qualified music video that includes the Montana logo at the end of each video and within online promotions;

(d) a qualified interactive game that includes a 15-second Montana advertisement in units sold and embedded in online promotions; or

(e) a qualified television special or sports event for which the network provides complimentary placement of two 30-second spots per 30 minutes of qualifying television special or sports event programming promoting Montana destinations and provided by the department of commerce as provided for in 15-31-1004(7).

(13)(16) “Qualified postproduction activity” means an activity performed in this state on a qualified production employing traditional, emerging, and new workflow techniques used in postproduction for picture, sound, and music editing, rerecording and mixing, visual effects, graphic design, original scoring, animation, musical composition, and other activities performed after initial production and including activities performed on previously produced and edited content.

(14)(17) “Qualified postproduction wage” means wages incurred in this state directly in qualified postproduction activities for footage shot inside or outside this state.

(15)(18) (a) “Qualified production” means a *production, for which a minimum of 60% of principal photography time was completed in the state or the base investment exceeded \$5 million, that is a new film, video, or digital project including only feature films, series for theaters, television, or streaming, pilots, movies and scripted shows made for television or streaming, nonscripted television programs, documentaries, televised commercial advertisements, music videos, corporate videos, industrial films, production for website creation, television specials, sports events, video games, interactive entertainment, prereleased interactive games, and sound recording projects used in a feature film, series, pilot, or movie for television.*

(b) The term includes projects shot, recorded, or originally created in short or long form, animation, and music, fixed on a delivery system, including film, videotape, computer disc, laser disc, and any element of the digital domain, from which the program is viewed or reproduced and which is intended for multimarket commercial distribution via a theater, video on demand, digital or fiber optic distribution platforms, digital video recording, a digital platform designed for distribution of interactive games, licensing for exhibition by individual television stations, groups of stations, networks, advertiser-supported sites, cable television stations, streaming services, or public broadcasting stations.

(c) The term does not include the coverage of news, local interest programming, instructional videos, commercials distributed only on the internet, infomercials, solicitation-based productions, ~~nonscripted television programs~~, feature films consisting primarily of stock footage not originally recorded in Montana, or projects containing obscenity as defined in 45-8-201(2).

(16)(19) (a) “Qualified production activity” means a *production, for which a minimum of 60% of principal photography time was completed in the state or the base investment exceeded \$5 million, that is the production of a new film, video, or digital project in this state and approved by the department of commerce, including only feature films, series for theaters, television, or streaming, pilots, movies and scripted shows made for television or streaming, nonscripted television programs, documentaries, televised commercial advertisements, music videos, corporate videos, industrial films, production for website creation, television specials, sports events, video games, interactive entertainment, prereleased interactive games, and sound recording projects used in a feature film, series, pilot, or movie for television.*

(b) The term includes the production of projects filmed or recorded in this state, in whole or in part and in short or long form, animation and music, fixed on a delivery system, including film, videotape, computer disc, laser disc, and any element of the digital domain, from which the program is viewed or reproduced and which is intended for multimarket commercial distribution via a theater, video on demand, digital or fiber optic distribution platforms, digital video recording, a digital platform designed for distribution of interactive games, licensing for exhibition by individual television stations, groups of

stations, networks, advertiser-supported sites, cable television stations, streaming services, or public broadcasting stations.

(c) The term does not include the coverage of news, local interest programming, instructional videos, commercials distributed only on the internet, infomercials, solicitation-based productions, ~~nonscripted television programs~~, or feature films consisting primarily of stock footage not originally recorded in Montana, projects containing obscenity as defined in 45-8-201(2), or projects not shot, recorded, or originally created in Montana.

~~(17)(20)~~ “Resident” has the meaning provided in 15-30-2101.

~~(18)(21)~~ “State-certified production” means a production engaged in qualified production activities and certified by the department of commerce as provided in 15-31-1004.

~~(19)(22)~~ “Underserved area” means a county in this state in which 14% or more people of all ages are in poverty as determined by the U.S. bureau of the census estimates for the most current year available.”

Section 4. Section 15-31-1004, MCA, is amended to read:

“15-31-1004. Application for state certification. (1) (a) A production company may not receive the tax credit provided for in 15-31-1007 unless the production has been certified by the department of commerce as provided in this section.

(b) A postproduction company may not receive the tax credit provided for in 15-31-1009 unless the postproduction company has been certified by the department of commerce. The postproduction company shall submit an application that includes the information provided for in subsection (2)(a) for the postproduction company. The application must be submitted in the year in which the postproduction plans to claim the credit and must be accompanied by a \$500 application fee. For the purposes of allocating the credit pursuant to 15-31-1010, the application must contain an estimate of the amount of credit the postproduction company will claim. A postproduction company that plans to claim the credit in more than 1 tax year must apply for the credit each year, but the application fee is only required in the first year of application. The department of commerce shall notify the applicant whether the postproduction company qualifies for the credit within 30 days of receipt of the application.

(2) An application, on a form provided by the department of commerce, must be submitted by the production company to the department of commerce before the start of principal photography. The application must be accompanied by a \$500 fee and must include:

(a) the production company’s name, primary business address, telephone and fax numbers, incorporation information, federal tax identification number, and the name of at least one principal company officer or manager;

(b) the address and telephone and fax numbers of the production company’s Montana office;

(c) the name of the line producer, unit production manager, or production accountant;

(d) a statement that the applicant meets the definition of production company in 15-31-1003;

(e) the title of the production;

(f) the type of production;

(g) the proposed dates of production from preproduction to the start and completion of principal photography;

(h) a copy or synopsis of the production script;

(i) a list of production locations;

(j) a statement that the proposed production does not contain any material or performance that would be considered obscene under 45-8-201(2);

(k) a statement that the production will include a qualified Montana promotion; and

(l) a statement that the production company plans to make a base investment of \$350,000 or more or, if subsection (5) applies, that the production company plans to make a base investment of \$50,000 or more.

(3) The application must be signed by the manager, agent, president, vice president, or other person authorized to represent the production company.

(4) (a) The department of commerce shall notify the applicant within 30 days of receipt of the application as to whether the production qualifies as a state-certified production.

(b) If the department of commerce approves the application, the department of commerce shall provide a certification number to the applicant.

(5) The department of commerce may approve on a case-by-case basis an application for a commercial, music video, production for website creation, video game, interactive entertainment, or experimental or low-budget project that plans a base investment of less than \$350,000 but more than \$50,000.

(6) (a) If the department of commerce determines that the production company has violated the provisions of subsection (2)(j) or (2)(k), the department of commerce may revoke the state certification of the production. If the department of commerce revokes the state certification, the department of commerce shall notify the department of revenue. The production company has the right to a hearing before the department of commerce on the revocation of the state certification as provided in Title 2, chapter 4, part 6.

(b) The department of revenue shall recapture any tax credit claimed by a production company for which the state certification has been revoked. The recapture is subject to penalties and interest as provided in 15-1-216.

(c) If the production company transferred the tax credit, the recapture provisions of 15-31-1008(7) apply.

(7) The department of commerce shall design and furnish the Montana screen credit needed to qualify for the additional tax credit provided for in ~~15-31-1007(3)(b)(viii)~~ 15-31-1007(3)(b)(ix) and the programming promoting Montana destinations provided for in ~~15-31-1003(12)(e)~~(15)(e).

(8) The application fee must be deposited in an account in the state special revenue fund. The fee is statutorily appropriated to the department of commerce, as provided in 17-7-502, to administer the provisions of 15-31-1004 through 15-31-1012.

(9) The department of commerce shall prescribe rules necessary to carry out the provisions of this section, including a procedure for review of the department of commerce's denial or revocation of state certification, the department's policies on the types of productions that may include the Montana screen credit, and the criteria for approving projects with a base investment of less than \$350,000."

Section 5. Section 15-31-1007, MCA, is amended to read:

"15-31-1007. Tax credit for media production. (1) Subject to 15-31-1010 and through the tax year ending December 31, ~~2029~~ 2045, a production company and its affiliates are allowed a credit against the taxes imposed by chapter 30 and this chapter for investments in a state-certified production approved by the department of commerce as provided in 15-31-1004 and 15-31-1005. The credit is for the base investment made up to 6 months before state certification through completion of the project. ~~The credit must be claimed for the period July 1, 2019, through December 31, 2020, in which the production expenditures were incurred or the compensation was paid unless the credit is transferred to the next tax year because the limits provided for in 15-31-1010 have been met. For periods after December 31, 2020, the~~ Subject to 15-31-1010(3), the credit must be claimed for the year in which the production

expenditures were incurred or the compensation was paid ~~unless the credit is transferred to the next tax year because the limits provided for in 15-31-1010 have been met.~~

(2) To claim the credit provided for in this section:

(a) the production company or its affiliate must have applied to the department of commerce as provided in 15-31-1005 and been approved to claim or transfer the credit; or

(b) the taxpayer must be the entity to which a credit approved pursuant to 15-31-1005 and this section was transferred.

(3) (a) The credit is equal to 20% of the production expenditures in the state in the tax year, plus the additional amounts provided for in subsection (3)(b), but may not in the aggregate exceed 35% of the production company's base investment in the tax year.

(b) Additional amounts for which the credit may be claimed are:

(i) 25% of the compensation paid per production or season of a television series to each crew member or production staff member who is a resident, not to exceed a \$150,000 credit per person;

(ii) 15% of the compensation paid per production or season of a television series to each crew member or production staff member who is not a resident but for whom Montana income taxes have been withheld, not to exceed a \$150,000 credit per person;

(iii) 20% of the first \$7.5 million of compensation paid per production or season of a television series to each actor, director, producer, or writer for whom Montana income taxes have been withheld;

(iv) 30% of compensation paid per production or season of a television series to a student enrolled in a Montana college or university who works on the production *as a paid intern or as a bona fide employee and* for college credit. The credit may not exceed \$50,000 per student. If a credit provided for in this subsection (3)(b)(iv) is claimed for an enrolled student, the credits provided for in subsections (3)(b)(i) through (3)(b)(iii) *and (3)(b)(v)* may not be claimed for the same enrolled student.

(v) *30% of the compensation paid per production or season of a television series to each crew member or production staff member who is a Montana resident veteran of the armed forces of the United States or an enrolled member or descendant of an Indian tribe recognized by the state, not to exceed a \$150,000 credit for each person. If a credit provided for in this subsection (3)(b)(v) is claimed, the credits provided for in subsections (3)(b)(i) through (3)(b)(iv) may not be claimed for the same crew member or production staff.*

~~(v)~~(vi) an additional 10% of payments made to a Montana college or university for stage rentals, equipment rentals, or location fees for filming on campus;

~~(vi)~~(vii) an additional 10% of all in-studio facility and equipment rental expenditures incurred in this state for a production that rents a studio for 20 days or more;

~~(vii)~~(viii) an additional 5% for production expenditures made in an underserved area; and

~~(viii)~~(ix) an additional 5% of the base investment in the state if the state-certified production includes a Montana screen credit furnished by the state as provided in 15-31-1004(7).

(4) If one production company makes a production expenditure to hire another production company to produce a project or contribute elements of a project for pay, the hired production company is considered a service provider for the hiring company and the hiring company is entitled to claim the credit for all expenditures that are incurred in the state.

(5) Any unused credit may be carried forward for 5 years or may be transferred as provided in 15-31-1008. The credit allowed by this section, including a transferred credit, may not be refunded if the taxpayer has a tax liability less than the amount of the credit.

(6) A taxpayer claiming a credit shall include with the tax return the following information:

- (a) the amount of tax credit claimed and transferred for the tax year;
- (b) the amount of the tax credit previously claimed or transferred;
- (c) the amount of the tax credit carried over from a previous tax year; and
- (d) the amount of the tax credit to be carried over to a subsequent tax year.

(7) (a) A taxpayer claiming the credit provided for in this section must claim the credit as provided in subsection (7)(b).

(b) (i) An entity taxed as a corporation for Montana income tax purposes shall claim the credit on its corporate income tax return.

(ii) Individuals, estates, and trusts shall claim a credit allowed under this section on their individual income tax return.

(iii) An entity not taxed as a corporation shall claim the credit allowed under this section on member or partner returns as follows:

(A) corporate partners or members shall claim their share of the credit on their corporate income tax returns;

(B) individual partners or members shall claim their share of the credit on their individual income tax returns; and

(C) partners or members that are estates or trusts shall claim their share of the credit on their fiduciary income tax returns.

(c) In order to prevent disguised sales of the credit provided for in this section, allocations of credits through partnership and membership agreements may not be recognized unless they have a substantial economic effect as that term is defined in 26 U.S.C. 704 and applicable federal regulations.

(8) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has included the amount of the production expenditure or compensation on which the amount of the credit was computed in determining Montana taxable income under 15-30-2120 or as a deduction under 15-31-114.”

Section 6. Section 15-31-1009, MCA, is amended to read:

“15-31-1009. Tax credit for postproduction wages. (1) *Through Subject to 15-31-1010 and through the tax year ending December 31, 2029 2045*, a postproduction company that has incurred qualified postproduction wages in the tax year is allowed a credit against the taxes imposed by chapter 30 and this chapter if the taxpayer applies to the department of commerce as provided in 15-31-1004 and to the department of revenue as provided in 15-31-1005 and is approved to claim the credit.

(2) The tax credit is equal to 25% of qualified postproduction wages incurred in the state.

(3) A tax credit claimed under this section may not exceed the postproduction company's total compensation paid to employees working in this state for the tax year in which the credit is claimed.

(4) The tax credit allowed by this section may not be refunded if the taxpayer has no tax liability. Any unused credit may be carried forward for 5 years.

(5) A taxpayer claiming a credit shall include with the tax return the following information:

- (a) the amount of tax credit claimed for the tax year;
- (b) the amount of the tax credit previously claimed;
- (c) the amount of the tax credit carried over from a previous tax year; and
- (d) the amount of the tax credit to be carried over to a subsequent tax year.

(6) (a) A taxpayer claiming the credit provided for in this section must claim the credit as provided in subsection (6)(b).

(b) (i) An entity taxed as a corporation for Montana income tax purposes shall claim the credit on its corporate income tax return.

(ii) Individuals, estates, and trusts shall claim a credit allowed under this section on their individual income tax return.

(iii) An entity not taxed as a corporation shall claim the credit allowed under this section on member or partner returns as follows:

(A) corporate partners or members shall claim their share of the credit on their corporate income tax returns;

(B) individual partners or members shall claim their share of the credit on their individual income tax returns; and

(C) partners or members that are estates or trusts shall claim their share of the credit on their fiduciary income tax returns.

(c) In order to prevent disguised sales of the credit provided for in this section, allocations of credits through partnership and membership agreements may not be recognized unless they have a substantial economic effect as that term is defined in 26 U.S.C. 704 and applicable federal regulations.

(7) A postproduction company may not claim a credit under this section for production expenditures for which the media production credit provided for in 15-31-1007 is claimed."

Section 7. Section 15-31-1010, MCA, is amended to read:

~~"15-31-1010. (Temporary) Limitation of tax credits. (1) (a) The department of commerce may grant to applicants pursuant to 15-31-1004 the authority to apply for the tax credits provided for in 15-31-1007 and 15-31-1009.~~

~~(b) The authorization by the department of commerce to apply for a credit does not guarantee the credit. A taxpayer authorized to apply for a credit pursuant to 15-31-1004 and this section must meet the requirements of 15-31-1005 through 15-31-1009 and subsection (2) of this section.~~

~~(c) The department of commerce shall make reasonable efforts to post on its website the amount of tax credits available and not yet allocated.~~

~~(2) (a) Total claims for the tax credits provided for in 15-31-1007 and 15-31-1009 may not exceed [\$12 million] per calendar year.~~

~~(b) Claims must be allowed on a first-come, first-served basis. A taxpayer whose claim for a credit is disallowed because the calendar year limit has been reached may use the credit in the next calendar year but the transfer of the credit to the next calendar year does not extend the carry-forward periods provided for in 15-31-1007(5) or 15-31-1009(4).~~

~~(c) If a claim is disallowed because the calendar year limit has been reached, the department of revenue may waive penalties and interest pursuant to 15-1-216.~~

~~(d) The department of revenue shall make reasonable efforts to post on its website the amount of credits available and not yet claimed. (Bracketed language is temporarily amended to "\$10 million" on occurrence of contingency for income tax years 2022, 2023, 2024, and 2025 until July 1, 2025--secs. 7(6), 9, Ch. 509, L. 2021--see compiler's comment.)~~

15-31-1010. (Effective July 1, 2025) Limitation of tax credits – allocation – fee. (1) (a) The department of commerce may grant to applicants pursuant to 15-31-1004 the authority to apply for the tax credits provided for in 15-31-1007 and 15-31-1009.

(b) The authorization by the department of commerce to apply for a credit does not guarantee the credit. A taxpayer authorized to apply for a credit pursuant to 15-31-1004 and this section must meet the requirements of 15-31-1005 through 15-31-1009 and ~~subsection subsections (2) and (3)~~ of this section.

(c) The department of commerce shall make reasonable efforts to post on its website the amount of tax credits available and not yet allocated.

(2) (a) Total claims for the tax credits provided for in 15-31-1007 and 15-31-1009 may not exceed ~~\$12~~ \$12 million per calendar year *and must be allocated as provided in subsection (2)(b)*.

~~(b) Claims must be allowed on a first-come, first-served basis within the allocations provided for in subsection (2)(b):~~

~~(b) Except as provided in subsection (2)(c), credits under 15-31-1007 and 15-31-1009 are allocated as follows:~~

~~(i) \$12 million is allocated annually for credits approved prior to December 31, 2024, until the year when all of the approved credits for productions that occurred in years before 2025 are claimed, and after all carry forward authority has expired; and~~

~~(ii) once the credits approved prior to December 31, 2024, are claimed, the remainder must be allocated as follows:~~

~~(A) 10% to any production company or postproduction company on a first-come, first-served basis;~~

~~(B) 10% for independent film productions;~~

~~(C) 40% for media production credits derived from any portion of base investment related to the rental cost of qualified Montana facilities; and~~

~~(D) 40% for domiciled companies.~~

~~(c) By April 1 of each year following the year the production expenditures were incurred or the compensation was paid, any balance not claimed under subsection (2)(b) for the prior year is available on a first-come, first-served basis in addition to the amount allocated under subsection (2)(b)(i). Any unclaimed credit balance that becomes available under this section is subject to a 2% fee.~~

~~(3) (a) A taxpayer whose claim for a credit from a production occurring prior to January 1, 2025, is approved but is disallowed because the calendar year limit has been reached may use the credit in the next calendar year but the. The transfer of the credit to the next calendar year does not extend the carry forward periods provided for in 15-31-1007(5) or 15-31-1009(4).~~

~~(c)(b) If a claim is disallowed because the calendar year limit has been reached, the department of revenue may waive penalties and interest pursuant to 15-1-216.~~

~~(d)(c) The department of revenue shall make reasonable efforts to post on its website the amount of credits available and not yet claimed.~~

~~(4) The fee provided for in subsection (2)(c) must be deposited in the account provided for in [section 1] and used for film industry workforce training."~~

Section 8. Repealer. Sections 1, 2, 3, 4, 5, 6, 7, 8, and 9, Chapter 509, Laws of 2021, are repealed.

Section 9. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 10. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 31, part 10, and the provisions of Title 15, chapter 31, part 10, apply to [section 1].

Section 11. Effective date. [This act] is effective on passage and approval.

Section 12. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to income tax years beginning on or after January 1, 2025.

Approved May 12, 2025

CHAPTER NO. 599

[SB 333]

AN ACT EXTENDING THE SUNSET DATE OF THE COAL SEVERANCE TAX COAL WASHING CREDIT; AMENDING SECTION 7, CHAPTER 433, LAWS OF 2009, AND SECTION 1, CHAPTER 352, LAWS OF 2015; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7, Chapter 433, Laws of 2009, is amended to read:

“Section 7. Termination. The amendment in [section 3(5)] defining “coal washing” and the amendment in [section 3(6)] revising the definition of “contract sales price” terminate July 1, ~~2017~~ 2027.”

Section 2. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 3. Section 1, Chapter 352, Laws of 2015, is amended to read:

“Section 1. Section 7, Chapter 433, Laws of 2009, is amended to read:

“Section 7. Termination. The amendment in [section 3(5)] defining “coal washing” and the amendment in [section 3(6)] revising the definition of “contract sales price” terminate July 1, ~~2017 2025~~ 2027.”

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 12, 2025

CHAPTER NO. 600

[SB 335]

AN ACT CREATING THE MONTANA DENTAL INSURANCE TRANSPARENCY AND ACCOUNTABILITY ACT; PROVIDING DEFINITIONS; PROVIDING FOR TRANSPARENCY OF DENTAL INSURANCE PREMIUMS; PROVIDING FOR CERTAIN REBATES; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 33-18-208, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title – purpose – scope – exceptions. (1) [Sections 1 through 5] may be cited as the “Montana Dental Insurance Transparency and Accountability Act”.

(2) The purpose of [sections 1 through 5] is to:

(a) require that dental insurance coverage has a medical loss ratio that is transparent to the public and fair to covered individuals; and

(b) provide for transparency of the expenditure of dental health care plan premiums and to require annual reports and remediation if the dental loss ratio falls below a certain percentage.

(3) The provisions of [sections 1 through 5] apply to all policies and certificates of individual and group dental insurance offered to, renewed for, or issued to Montana residents by a disability insurer offering dental coverage.

(4) [Sections 1 through 5] do not apply to health insurance coverage that has dental benefits imbedded in the plan in addition to other medical benefits and is subject to the minimum medical loss ratio requirements of Public Law 111-148, the Patient Protection and Affordable Care Act.

(5) [Sections 1 through 5] do not apply to dental care services covered under medicaid or the healthy Montana kids plan provided for in Title 53, chapter 4, part 11.

Section 2. Definitions. As used in [sections 1 through 5], the following definitions apply:

(1) (a) “Dental insurer” means an insurance company licensed to do business in the state that offers coverage for dental services, including excepted benefits as defined in 33-22-140.

(b) The term does not include health insurance coverage described in [section 1(4)].

(2) “Dental loss ratio” means the percentage of premium dollars spent on patient care as calculated pursuant to subsection (3)(b)(i).

(3) (a) “Medical loss ratio” is the minimum percentage of all premium funds collected by an insurer each year that must be spent on actual patient care rather than overhead costs.

(b) The dental loss ratio is calculated by dividing the numerator by the denominator, in which:

(i) the numerator is the sum of the amount incurred for clinical dental services provided to enrollees, the amount incurred on activities that improve dental care quality, and other incurred claims as defined in 45 CFR 158.140(a); and

(ii) the denominator is the total amount of premium revenue, excluding federal and state taxes, licensing and regulatory fees paid, nonprofit community benefit expenditures as defined in 45 CFR 158.162(c), and any other payments required by federal law.

Section 3. Transparency of dental insurance premiums. (1) A dental insurer that issues, sells, or renews a plan, policy, contract, or certificate covering dental services shall file by March 1 of each year with its annual statement a medical dental loss ratio report with the commissioner of securities and insurance that is organized by market and product type and contains similar information required in the 2013 federal medical loss ratio annual reporting form. The filing must also report additional data that includes the number of enrollees, the plan cost-sharing and deductible amounts, the annual maximum coverage limit, and the number of enrollees who meet or exceed the annual coverage limit.

(2) (a) The dental loss ratio reporting year must be for the policy year during which dental coverage is provided by the insurer. All terms used in the dental loss ratio annual report have the same meaning as used in the federal Public Health Service Act, 42 U.S.C. 300gg-18, and 45 CFR, part 158.

(b) If data verification of the dental insurer’s representations in the dental loss ratio annual report is considered necessary, the commissioner shall provide the dental insurer with a notification of the additional information needed within 30 days.

(c) The dental insurer has 30 days from the date of notification to submit to the commissioner all requested data. The commissioner may extend the time for a dental insurer to comply with this subsection (2)(c) on a finding of good cause.

(3) By January 1 of the year after the commissioner receives the dental loss ratio information collected pursuant to [sections 1 through 5], the commissioner shall make the information, including the aggregate dental loss ratio and other data reported pursuant to this section, available to the public in a searchable format on a public website that allows members of the public to compare dental loss ratios among insurers by plan type. The commissioner shall accomplish this by posting the information on the department’s website.

(4) The commissioner shall report biennially the data in this section to the economic affairs interim committee in accordance with 5-11-210.

Section 4. Excess revenue – rebate. (1) The commissioner shall aggregate dental loss ratios for each dental insurer by year pursuant to [section 3] for each market segment in which the dental insurer operates. The commissioner shall calculate an average dental loss ratio for each market segment using aggregate data for a 3-year period, including data for the most recent dental loss ratio reporting year and the data for the two prior dental loss ratio reporting years. Newer experience is subject to reporting standards specified in 45 CFR 158.121.

(2) (a) The commissioner shall calculate an average dental loss ratio for each market segment using the data pursuant to subsection (1), identify as outliers dental plans that fall outside 1 standard deviation of the average dental loss ratio, and report those plans to the legislature as provided in [section 3(4)].

(b) A dental insurer may not be considered an outlier if its dental loss ratio in a market segment is within 3 percentage points of the average dental loss ratio. A higher threshold may be set in unique circumstances as determined reasonable by the commissioner.

(3) The commissioner shall investigate dental insurers that report a dental loss ratio lower than 1 standard deviation from the mathematical average and may take remediation or enforcement actions against them, including ordering them to rebate, in a manner consistent with 45 CFR, part 158, subpart B, all premiums paid above the amounts that would have caused the dental insurer to have achieved the mathematical average of the data submitted in a given year for a given market segment.

(4) The report in subsection (2) is organized to show year-over-year changes in a dental insurer's outlier status relative to meeting the 1 standard deviation outlier standard in subsection (2). If the dental loss ratio for a dental insurer in a market segment does not increase and remains an outlier as described in subsection (2) after 2 consecutive years, barring unique circumstances as determined reasonable by the commissioner, the dental insurer is subject to a minimum dental loss ratio percentage by market segment. The commissioner shall promulgate rules establishing the dental loss ratio percentage based on, at minimum, the average of existing dental insurer loss ratios by market segment in the state to be effective no sooner than 42 months after a dental insurer is determined to be an outlier.

(5) A dental insurer subject to remediation in subsections (3) and (4) shall provide any rebate owing to a policyholder no later than August 1 of the fiscal year following the year for which the ratio described in subsection (1) was calculated. The commissioner may establish alternatives to direct rebates to include premium reductions in the following benefit year.

(6) The commissioner may promulgate rules that create a process to identify dental insurers that increase rates in excess of the percentage increase of the latest dental services consumer price index as reported through the bureau of labor statistics of the United States department of labor.

Section 5. Rulemaking. (1) The commissioner of securities and insurance shall adopt rules to implement the provisions of [sections 1 through 5].

(2) (a) The commissioner shall define by rule:

- (i) expenditures for clinical dental services;
- (ii) activities that improve dental care quality; and
- (iii) overhead and administrative cost expenditures.

(b) Activities conducted by an issuer intended to improve dental care quality may not exceed 5% of net premium revenue.

(3) The definitions promulgated by rule pursuant to this section must be consistent with similar definitions that are used for the reporting of medical loss ratios by insurers offering health insurance coverage in the state. Overhead and administrative costs may not be included in the numerator.

Section 6. Section 33-18-208, MCA, is amended to read:

“33-18-208. Contract to contain agreements – rebates prohibited – life, disability, and annuity contracts. Except as otherwise expressly provided by law *and in [section 4]*, ~~no~~ a person ~~shall~~ *may not* knowingly:

(1) permit or offer to make or make any contract of life insurance, life annuity, or disability insurance or agreement as to such contract other than as plainly expressed in the contract issued thereon;

(2) pay or allow or give or offer to pay, allow, or give, directly or indirectly, as inducement to such insurance or annuity any rebate of premiums payable on the contract or any special favor or advantage in the dividends or other benefits thereon or any paid employment or contract for services of any kind or any valuable consideration or inducement whatever not specified in the contract;

(3) directly or indirectly give or sell or purchase or offer or agree to give, sell, purchase, or allow as inducement to such insurance or annuity or in connection therewith and whether or not to be specified in the policy or contract, any agreement of any form or nature promising returns and profits or any stocks, bonds, or other securities or interest present or contingent therein or as measured thereby of any insurance company or other corporation, association, or partnership or any dividends or profits accrued or to accrue thereon; or

(4) offer, promise, or give anything of value whatsoever not specified in the contract.”

Section 7. Codification instruction. [Sections 1 through 5] are intended to be codified as an integral part of Title 33, chapter 22, and the provisions of Title 33, chapter 22, apply to [sections 1 through 5].

Section 8. Effective date. [This act] is effective June 1, 2025.

Section 9. Applicability. [This act] applies to dental insurance policies, plans, contracts, and certificates issued or renewed on or after January 1, 2026.

Approved May 12, 2025

CHAPTER NO. 601

[SB 337]

AN ACT REVISING PROPERTY TAXES FOR SUBDIVISION DEVELOPMENT PROJECTS; PROVIDING A TEMPORARY TAX EXEMPTION FOR PROPERTY THAT IS PART OF A RESIDENTIAL SUBDIVISION DEVELOPMENT PROJECT; PROVIDING FOR PREPAYMENT OF PROPERTY TAXES THAT WOULD HAVE BEEN COLLECTED IF THE SUBJECT PROPERTY WAS NOT UNDERGOING RESIDENTIAL SUBDIVISION DEVELOPMENT; PROVIDING FOR TERMINATION OF THE EXEMPTION FOR CERTAIN EVENTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 15-10-305, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Temporary exemption for residential subdivision development – rulemaking. (1) Subject to the provisions of this section, property that is undergoing residential subdivision development is temporarily exempt from taxation at the start of the property tax year beginning January 1 after the following conditions are met:

(a) the developer has submitted a timely property tax exemption application to the department and the department has approved the exemption application; and

(b) within 30 days after approval of the exemption application and before January 1 of the property tax year in which the exemption is sought, the developer has submitted a property tax prepayment equal to five times the amount of property taxes and assessments due on the property in the most recent property tax year. The payment is payable to the county treasurer and must be distributed by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed.

(2) At the time the exemption is granted, the department shall provide a notice to the clerk and recorder in the county in which the property is located. The clerk shall file the notice when the payment provided for in subsection (1)(b) is made. The notice must indicate that an exemption pursuant to this section has been granted on a form prescribed by the department.

(3) The developer or an interested party shall pay the amount provided for in subsection (1)(b) plus a fee of 5% before January 1 of the property tax year in which the exemption is sought. The payment is payable to the county treasurer and must be distributed by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed.

(4) (a) Subject to subsection (4)(b), the temporary exemption applies to all real property in the subdivision that was granted the exemption, including new construction of residential property for a period not to exceed 5 years, regardless of the number of conveyances from the land split, the value of real property and residential real property during the construction process, or a change in ownership.

(b) The exemption expires on any lot that was part of the land split at the start of the property tax year beginning on January 1 after a habitable residential structure has been constructed on the lot.

(5) If subdivision development is complete before the expiration of the period provided for in subsection (4)(a), the temporary exemption expires on December 31 of the year in which the subdivision development is complete. For the purposes of this subsection, subdivision development is complete when at least 95% of the lots that are part of the land split contain a habitable residential structure.

(6) The department may adopt rules to implement the provisions of this section.

Section 2. Section 15-10-305, MCA, is amended to read:

“15-10-305. Clerk and recorder to report mill levy – department to compute and enter taxes. (1) (a) The county clerk and recorder shall by the second Monday in September or within 30 calendar days after receiving certified taxable values notify the department of the number of mills needed to be levied for each taxing jurisdiction in the county. Except as provided in subsection (1)(b), the department shall compute the taxes by multiplying the number of mills times the taxable value of the property to be taxed and shall add any fees or assessments required to be levied against a person owning property. All taxes, fees, and assessments must be itemized for the property listed in the property tax record.

(b) ~~In~~ *Except as provided in [section 1] regarding property that has been granted a residential subdivision property tax exemption, in conveyances that result in a land split, the taxes must be based on the property as assessed on January 1 preceding the conveyance. The department is not required to include the name of the new owner in the computation of the amount of taxes, fees, and assessments to be levied against property that is part of a land conveyance*

if including the new owner's name would cause the department to violate the deadline provided in subsection (2).

(2) The department shall complete the computation of the amount of taxes, fees, and assessments to be levied against the property and shall notify the county clerk and recorder and the county treasurer by the second Monday in October. Notwithstanding the provisions of 15-10-321, if a county clerk and recorder fails to timely notify the department of the number of mills needed to be levied for each taxing jurisdiction in that county in accordance with subsection (1)(a), the department must have additional time to meet the notification requirement of this subsection (2) equal to the number of days that the notification required in subsection (1)(a) was received late by the department."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [section 1].

Section 4. Applicability. [This act] applies to property tax years beginning after December 31, 2025.

Approved May 12, 2025

CHAPTER NO. 602

[SB 348]

AN ACT REVISING PENALTIES FOR THE CRIME OF SEXUAL ASSAULT; PROVIDING THAT OFFENDERS WHO COMMIT A SECOND OFFENSE OF SEXUAL ASSAULT MUST REGISTER AS A SEXUAL OFFENDER; AND AMENDING SECTIONS 45-5-502 AND 46-23-502, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 45-5-502, MCA, is amended to read:

"45-5-502. Sexual assault. (1) A person who knowingly subjects another person to any sexual contact without consent commits the offense of sexual assault.

(2) Except as provided in subsections (3) and (4):

(a) on a first conviction for sexual assault, the offender shall be fined an amount not to exceed ~~\$500~~ *\$1,000* or be imprisoned in the county jail for a term not to exceed ~~6 months~~ *1 year*, or both;

(b) on a second conviction for sexual assault, the offender shall be fined an amount not to exceed ~~\$1,000~~ *\$5,000* or be imprisoned ~~in the county jail~~ for a term not to ~~exceed 1 year~~ *exceed 5 years*, or both; and

(c) on a third and subsequent conviction for sexual assault, the offender shall be fined an amount not to exceed \$10,000 or be imprisoned for a term not to exceed ~~5~~ *10* years, or both.

(3) If the victim is less than 16 years old and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing sexual assault, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years, unless the judge makes a written finding that there is good cause to impose a term of less than 4 years and imposes a term of less than 4 years, or more than 100 years and may be fined not more than \$50,000.

(4) If the victim is a client receiving psychotherapy services and the offender is providing or purporting to provide psychotherapy services to the victim, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years, unless the judge makes a

written finding that there is good cause to impose a term of less than 4 years and imposes a term of less than 4 years, or more than 100 years and may be fined not more than \$50,000.

(5) An act “in the course of committing sexual assault” includes an attempt to commit the offense or flight after the attempt or commission.

(6) (a) Subject to subsections (6)(b) through (6)(f), consent is ineffective under this section if the victim is:

(i) incarcerated in an adult or juvenile correctional, detention, or treatment facility or is on probation, conditional release, or parole and the perpetrator is an employee, contractor, or volunteer of the supervising authority and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search;

(ii) less than 14 years old and the offender is 3 or more years older than the victim;

(iii) receiving services from a youth care facility, as defined in 52-2-602, and the perpetrator:

(A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(B) is an employee, contractor, or volunteer of the youth care facility;

(iv) admitted to a mental health facility, as defined in 53-21-102, is admitted to a community-based facility or a residential facility, as those terms are defined in 53-20-102, or is receiving community-based services, as defined in 53-20-102, and the perpetrator:

(A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(B) is an employee, contractor, or volunteer of the facility or community-based service;

(v) a program participant, as defined in 52-2-802, in a private alternative adolescent residential or outdoor program, pursuant to Title 52, chapter 2, part 8, and the perpetrator is a person associated with the program, as defined in 52-2-802;

(vi) the victim is a client receiving psychotherapy services and the perpetrator:

(A) is providing or purporting to provide psychotherapy services to the victim; or

(B) is an employee, contractor, or volunteer of a facility that provides or purports to provide psychotherapy services to the victim and the perpetrator has supervisory or disciplinary authority over the victim; or

(vii) a student of an elementary, middle, junior high, or high school, whether public or nonpublic, and the perpetrator is not a student of an elementary, middle, junior high, or high school and is an employee, contractor, or volunteer of any school who has ever had instructional, supervisory, disciplinary, or other authority over the student in a school setting.

(b) Subsection (6)(a)(i) does not apply if one of the parties is on probation, conditional release, or parole and the other party is a probation or parole officer of the supervising authority and the parties are married to each other.

(c) Subsections (6)(a)(iii) and (6)(a)(iv) do not apply if the individuals are married to each other and one of the individuals involved is a patient in or resident of a facility, is a recipient of community-based services, or is receiving services from a youth care facility and the other individual is an employee, contractor, or volunteer of the facility or community-based service.

(d) Subsection (6)(a)(v) does not apply if the individuals are married to each other and one of the individuals involved is a program participant and the other individual is a person associated with the program.

(e) Subsection (6)(a)(vi) does not apply if the individuals are married to each other and one of the individuals involved is a psychotherapy client and the other individual is a psychotherapist or an employee, contractor, or volunteer of a facility that provides or purports to provide psychotherapy services to the client.

(f) Subsection (6)(a)(vii) does not apply if the individuals are married to each other.”

Section 2. Section 46-23-502, MCA, is amended to read:

“46-23-502. Definitions. As used in Title 45, chapter 5, part 3 and parts 5 through 7, 46-18-255, and this part, the following definitions apply:

(1) “Department” means the department of corrections provided for in 2-15-2301.

(2) “Foreign offenses” means a conviction for a sexual offense involving any of the conduct listed in this section that was obtained under the laws of Canada, the United Kingdom, Australia, or New Zealand, or under the laws of any foreign country when the United States department of state, in its country reports on human rights practices, has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction was obtained.

(3) “Mental abnormality” means a congenital or acquired condition that affects the mental, emotional, or volitional capacity of a person in a manner that predisposes the person to the commission of one or more sexual offenses to a degree that makes the person a menace to the health and safety of other persons.

(4) “Municipality” means an entity that has incorporated as a city or town.

(5) “Personality disorder” means a personality disorder as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders adopted by the American psychiatric association.

(6) “Predatory sexual offense” means a sexual offense committed against a stranger or against a person with whom a relationship has been established or furthered for the primary purpose of victimization.

(7) “Registration agency” means:

(a) if the offender resides in a municipality, the police department of that municipality; or

(b) if the offender resides in a place other than a municipality, the sheriff’s office of the county in which the offender resides.

(8) (a) “Residence” means the location at which a person regularly resides, regardless of the number of days or nights spent at that location, that can be located by a street address, including a house, apartment building, motel, hotel, or recreational or other vehicle.

(b) The term does not mean a homeless shelter.

(9) “Sexual offender evaluator” means a person qualified under rules established by the department to conduct psychosexual evaluations of sexual offenders and sexually violent predators.

(10) (a) “Sexual offense” means any violation, attempt, solicitation, or conspiracy to commit a violation, or flight after the attempt or commission of the following:

(i) 45-5-301, unlawful restraint, if the victim is less than 18 years of age and the offender is not a parent of the victim;

(ii) 45-5-302, kidnapping, if the victim is less than 18 years of age and the offender is not a parent of the victim;

(iii) 45-5-303, aggravated kidnapping, if the victim is less than 18 years of age and the offender is not a parent of the victim;

(iv) ~~45-5-502(2)(c)~~ 45-5-502(2)(b) and (2)(c), (3), and (4), sexual assault;

- (v) 45-5-503, sexual intercourse without consent;
 - (vi) 45-5-504(2)(c) and (3), indecent exposure;
 - (vii) 45-5-507, incest, if the victim is less than 18 years of age and the offender is 3 or more years older than the victim, or if the victim is 12 years of age or younger and the offender is 18 years of age or older at the time of the offense;
 - (viii) 45-5-508, aggravated sexual intercourse without consent;
 - (ix) 45-5-601(2)(b) and (3), prostitution;
 - (x) 45-5-622(2)(b)(ii), endangering the welfare of children;
 - (xi) 45-5-625, sexual abuse of children;
 - (xii) 45-5-627(1)(a), ritual abuse of a minor;
 - (xiii) 45-5-705, patronizing a victim of sex trafficking;
 - (xiv) 45-5-706, aggravated sex trafficking;
 - (xv) 45-5-711, child sex trafficking;
 - (xvi) 45-8-218, deviate sexual conduct; or
 - (xvii) any violation of a law of another state, a tribal government, the federal government, or the military or a foreign entity that is reasonably equivalent to a violation listed in subsections (10)(a)(i) through (10)(a)(xvi) or for which the offender was required to register as a sexual offender after an adjudication or conviction.
- (b) The term does not include the exceptions provided for in 45-5-501, 45-5-502, and 45-5-503.
- (11) "Sexual or violent offender" means a person who has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual or violent offense.
- (12) "Sexually violent predator" means a person who:
- (a) has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual offense and who suffers from a mental abnormality or a personality disorder that makes the person likely to engage in predatory sexual offenses; or
 - (b) has been convicted of a sexual offense against a victim 12 years of age or younger and the offender is 18 years of age or older.
- (13) "Transient" means an offender who has no residence.
- (14) "Violent offense" means:
- (a) any violation of or attempt, solicitation, or conspiracy to commit a violation of:
 - (i) 45-5-102, deliberate homicide;
 - (ii) 45-5-103, mitigated deliberate homicide;
 - (iii) 45-5-202, aggravated assault;
 - (iv) 45-5-206 (third or subsequent offense), partner or family member assault;
 - (v) 45-5-210(1)(b), (1)(c), or (1)(d), assault on a peace officer or judicial officer;
 - (vi) 45-5-212, assault on a minor;
 - (vii) 45-5-213, assault with a weapon;
 - (viii) 45-5-215, strangulation of a partner or family member;
 - (ix) 45-5-302 (if the victim is not a minor), kidnapping;
 - (x) 45-5-303 (if the victim is not a minor), aggravated kidnapping;
 - (xi) 45-5-401, robbery;
 - (xii) 45-6-103, arson; or
 - (xiii) 45-9-132, operation of unlawful clandestine laboratory; or

(b) any violation of a law of another state, a tribal government, the federal government, or the military or a foreign entity reasonably equivalent to a violation listed in subsection (14)(a).”

Approved May 12, 2025

CHAPTER NO. 603

[SB 350]

AN ACT REVISING EDUCATION LAWS RELATED TO EXTRACURRICULAR PARTICIPATION; ALLOWING SCHOOL DISTRICTS OR ATHLETIC ORGANIZATIONS TO RESTRICT EXTRACURRICULAR PARTICIPATION OF HOME SCHOOL STUDENTS WHO ARE NOT CITIZENS OF THE UNITED STATES OR RESIDENTS OF MONTANA; AMENDING SECTION 20-5-112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-5-112, MCA, is amended to read:

“20-5-112. Participation in extracurricular activities. (1) (a) *Except as provided in subsection (1)(b), a school district or an athletic association, conference, or organization with authority over interscholastic sports may not prohibit or restrict the ability of a student attending a nonpublic or home school meeting the requirements of 20-5-109 from participating in extracurricular activities at a school in the student’s resident school district solely on the student’s enrollment at the public school or on the number of hours the student physically attends the public school.*

(b) A school district or an athletic association, conference, or organization with authority over interscholastic sports may prohibit or restrict the participation in extracurricular activities of a student attending a home school based on one or both of the following factors:

(i) the student’s status as a United States citizen; and

(ii) the student’s status as a Montana resident, as determined under the provisions of 1-1-215.

(2) Except as provided in subsections (1) and (3), a student attending a nonpublic or home school who participates in extracurricular activities at a public school is subject to:

(a) the same standards for participation as those required of full-time students enrolled in the school;

(b) the same rules of any interscholastic organization of which the school of participation is a member.

(3) (a) The academic eligibility for extracurricular participation for a student attending a nonpublic school must be attested by the head administrator of the nonpublic school.

(b) The academic eligibility for extracurricular participation for a student attending a home school must be attested in writing by the educator providing the student instruction with verification by the school principal. The verification may not include any form of student assessment.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 12, 2025

CHAPTER NO. 604

[SB 393]

AN ACT PROVIDING FUNDING FOR REIMBURSEMENTS FOR FELONY CRIMINAL JURISDICTION ON THE FLATHEAD INDIAN RESERVATION; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Allocation. Money must be allocated from the general fund to the office of budget and program planning to provide reimbursement for expenditures resulting from the enforcement of felony criminal jurisdiction on the Flathead Indian reservation.

Section 2. Distribution of funds. The office of budget and program planning shall distribute the amount allocated under [section 1] to Lake County and the Confederated Salish and Kootenai tribes upon satisfaction of the following conditions:

(1) \$250,000 must be distributed on or before July 31, 2025, to Lake County and \$250,000 must be distributed to the Confederated Salish and Kootenai tribes if the board of county commissioners of Lake County has rescinded and vacated "Resolution No. 22-42(a) to Withdraw from Public Law 280" adopted January 3, 2023. The right of the board of county commissioners of Lake County to withdraw consent to enforce criminal jurisdiction pursuant to 2-1-306(3) may not be further exercised by the board until the later of:

(a) June 1, 2027; or

(b) June 30, 2028, if the termination date provided in section 5, Chapter 556, Laws of 2021, is extended beyond June 30, 2027.

(2) The balance of the appropriation for the fiscal year beginning July 1, 2025, must be distributed in equal amounts to Lake County and to the Confederated Salish and Kootenai tribes within 30 days of the entrance into an agreement between the state of Montana, Lake County, and the Confederated Salish and Kootenai tribes addressing the sharing of costs between Lake County and the Confederated Salish and Kootenai tribes associated with the implementation of Public Law 280 within Lake County, including provisions relating to the expenditure of the amount allocated under [section 1] for the fiscal year beginning July 1, 2025, and for the fiscal year beginning July 1, 2026.

(3) The appropriation for the fiscal year beginning July 1, 2026, must be distributed in equal amounts to Lake County and to the Confederated Salish and Kootenai tribes by July 31, 2026, subject to confirmation by the office of budget and program planning of substantial compliance by all parties with the terms of the agreement between the state of Montana, Lake County, and the Confederated Salish and Kootenai tribes.

Section 3. Appropriation. There is appropriated \$6 million from the general fund to the office of budget and program planning for the biennium beginning July 1, 2025, for the purpose provided for in [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 12, 2025

CHAPTER NO. 605

[SB 409]

AN ACT GENERALLY REVISING LAWS RELATED TO THE DEPARTMENT OF COMMERCE; REVISING LAWS RELATED TO LODGING FACILITY USE TAX REVENUES; REQUIRING THE DEPARTMENT OF COMMERCE TO USE THE LODGING FACILITY USE TAX REVENUE FOR SPECIFIC PURPOSES; EXPANDING THE SCOPE OF THE EMERGENCY LODGING FOR VICTIMS OF DOMESTIC VIOLENCE OR HUMAN TRAFFICKING PROGRAM AND MAKING IT PERMANENT; AMENDING SECTIONS 15-65-121, 44-4-1505, AND 44-4-1506, MCA; AMENDING SECTION 12, CHAPTER 563, LAWS OF 2021, AND SECTION 10, CHAPTER 758, LAWS OF 2023; REPEALING SECTION 90-1-122, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-65-121, MCA, is amended to read:

~~“15-65-121. (Temporary) Distribution of tax proceeds. (1) The proceeds of the tax imposed by 15-65-111 must, in accordance with the provisions of 17-2-124, be deposited in an account in the state special revenue fund to the credit of the department. The department may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of 17-2-124 and as provided in subsections (2)(a) through (2)(j) of this section, the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The department shall distribute the portion of the 4% that was paid with federal funds to the department of administration for return to the federal government and deposit 30% of the amount deducted less the portion paid with federal funds in the state general fund.~~

~~(2) The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation, deposited in the state general fund, distributed to agencies that paid the tax with federal funds, or deposited in the heritage preservation and development account must be transferred to an account in the state special revenue fund to the credit of the department of commerce for the purposes designated under 90-1-122, to the emergency lodging for victims of domestic violence or human trafficking account, to the Montana historical interpretation state special revenue account, to the Montana historical society, to the university system, to the state-tribal economic development commission, and to the department of fish, wildlife, and parks, as follows:~~

~~(a) 1% to the Montana historical society to be used for the installation or maintenance of roadside historical signs and historic sites;~~

~~(b) 2.5% to the university system for the establishment and maintenance of a Montana travel research program;~~

~~(c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that have both resident and nonresident use;~~

~~(d) 1.4% to the invasive species state special revenue account established in 80-7-1004;~~

~~(e) 60.2% to be used directly by the department of commerce as provided in 90-1-122[, and in part to renovate the Miles City train depot];~~

(f) 0.1% to the emergency lodging for victims of domestic violence or human trafficking account established in 44-4-1506;

(g) (i) except as provided in subsection (2)(g)(ii), 22.5% to be distributed by the department to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and

(ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county, resort area, or resort area district exceeds \$35,000; 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area district is located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-county, resort area, or resort area district;

(h) 0.5% to the state special revenue account provided for in 90-1-135 for use by the state-tribal economic development commission established in 90-1-131 for activities in the Indian tourism region;

(i) 2.6% to the Montana historical interpretation state special revenue account established in 22-3-115; and

(j) 2.7% or \$1 million, whichever is less, to the Montana heritage preservation and development account provided for in 22-3-1004. The Montana heritage preservation and development commission shall report on the use of funds received pursuant to this subsection (2)(j) to the legislative finance committee on a semiannual basis, in accordance with 5-11-210.

(3) If a city, consolidated city-county, resort area, or resort area district qualifies under 15-68-820(5)(b)(iii) or this section for funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit tourism corporation in the region in which the city, consolidated city-county, resort area, or resort area district is located.

(4) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation may be used by the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials.

(5) The tax proceeds received that are transferred to a state special revenue account pursuant to subsections (2)(a) through (2)(c), (2)(e), and (2)(g) are statutorily appropriated to the entities as provided in 17-7-502. The tax proceeds received that are transferred to the emergency lodging for victims of domestic violence or human trafficking account pursuant to subsection (2)(f) are subject to the appropriation provisions in 44-4-1506.

(6) The tax proceeds received that are transferred to the invasive species state special revenue account pursuant to subsection (2)(d), to the Montana historical interpretation state special revenue account pursuant to subsection (2)(i), and to the Montana heritage preservation and development account pursuant to subsection (2)(j) are subject to appropriation by the legislature. (Terminates June 30, 2027--sec. 12, Ch. 563, L. 2021; sec. 10, Ch. 758, L. 2023; bracketed language in subsection (1)(e) terminates June 30, 2025--sec. 34, Ch. 763, L. 2023.)

15-65-121. (Effective July 1, 2027 2025) Distribution of tax proceeds.

(1) The proceeds of the tax imposed by 15-65-111 must, in accordance with the provisions of 17-2-124, be deposited in an account in the state special revenue fund to the credit of the department of revenue. The department of revenue may

spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of 17-2-124 and as provided in subsections ~~(2)(a) through (2)(h)~~ subsection (2) of this section, the department of revenue shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The department of revenue shall distribute the portion of the 4% ~~deducted from the state agencies in-state lodging calculation~~ that was paid with federal funds to the department of administration for return to the federal government and deposit 30% of the amount deducted less the portion paid with federal funds in the state general fund. The amount of \$400,000 each year must be deposited in the Montana heritage preservation and development account provided for in 22-3-1004.

(2) The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation, ~~deposited in the state general fund; or distributed to agencies that paid the tax with federal funds; or deposited in the heritage preservation and development account must be transferred to an account~~ individual accounts in the state special revenue fund to the credit of the department of commerce for the purposes designated under 90-1-122, to the Montana historical interpretation state special revenue account, to the Montana historical society, to the university system, to the state-tribal economic development commission, and to the department of fish, wildlife, and parks, as follows:

~~(a) 1% to the Montana historical society to be used for the installation or maintenance of roadside historical signs and historic sites;~~

~~(a) 1% to the Montana historical society to be used for the installation or maintenance of roadside historical signs and historic sites;~~

~~(b)(b) 2.5% 2% to the university system for the establishment and maintenance of a Montana travel research program;~~

~~(c)(c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that have both resident and nonresident use;~~

~~(d)(d) 1.4% 1.5% to the invasive species state special revenue account established in 80-7-1004;~~

~~(e) 63% to be used directly by the department of commerce as provided in 90-1-122;~~

~~(e) 24.5% to be used by the department of commerce for tourism media, advertising film programs, made-in-Montana promotions and main street programs, wayfinding and signage, and support to trade offices;~~

~~(f) 16.5% to be used by the department of commerce for rural tourism, under-visited area attraction projects, and tribal tourism, including infrastructure, marketing, and promotional activities;~~

~~(g) 15.5% to be used by the department of commerce for tourism-related emergency services and tourism grants, including agritourism grants and Montana-based film grants;~~

~~(h) 2.5% to be used by the department of commerce in collaboration with the office of economic development established in 2-15-218 for regional tourism assistance, new tourism attractions, and other state business development programs;~~

~~(i)(i) except as provided in subsection (2)(f)(ii) (2)(i)(ii), 22.5% to be distributed by the department to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and~~

(ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county, resort area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area district is located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-county, resort area, or resort area district;

~~(g)(j)~~ 0.5% to the state special revenue account provided for in 90-1-135 for use by the state-tribal economic development commission established in 90-1-131 for activities in the Indian tourism region; ~~and~~

~~(h)(k)~~ 2.6% 2.5% to the Montana historical interpretation state special revenue account established in 22-3-115;

(l) 2.5% to the emergency lodging and recovery for victims of domestic violence or human trafficking account established in 44-4-1506;

(m) 2% to the Montana heritage preservation and development account provided for in 22-3-1004; and

(n) any unspent funds from the accounts in subsections (2)(e) through (2)(h) must be deposited into the account of subsection (2)(e) by October 1 of each year.

(3) If a city, consolidated city-county, resort area, or resort area district qualifies under 15-68-820(5)(b)(iii) or this section for funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit tourism corporation in the region in which the city, consolidated city-county, resort area, or resort area district is located.

(4) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation may be used by the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials.

(5) The tax proceeds received that are transferred to a state special revenue account pursuant to subsections (2)(a) through (2)(c), (2)(e), and (2)(f) (2)(a) through (2)(c) and (2)(e) through (2)(i) are statutorily appropriated to the entities as provided in 17-7-502.

(6) The tax proceeds received that are transferred to ~~the invasive species state special revenue account~~ *state special revenue accounts* pursuant to subsection (2)(d) and to the Montana historical interpretation state special revenue account pursuant to subsection (2)(h) (2) are subject to appropriation by the legislature."

Section 2. Section 44-4-1505, MCA, is amended to read:

"44-4-1505. (Temporary) Emergency lodging and recovery program for victims of domestic violence or human trafficking – grants reimbursement – rulemaking – definitions. (1) There is an emergency lodging and recovery program for licensed establishments located in the state to assist designated organizations in providing short-term lodging and recovery assistance in the state to individuals and families that are victims of domestic violence or human trafficking.

(2) (a) Subject to the provisions of this section, participating establishments may ~~submit a grant application to enroll in the emergency lodging and recovery program.~~ *Participating establishments may seek reimbursement from the department of justice for providing emergency lodging and recovery assistance to an individual or family who is in immediate need of shelter based on being a victim of domestic violence or human trafficking.*

(b) In order to be eligible for ~~the grant reimbursement~~, the individual or family must be referred to the establishment by a designated organization.

(3) ~~Grant funds~~ *Funds* for the program are provided from funding in the emergency lodging *and recovery* for victims of domestic violence or human trafficking state special revenue account provided for in 44-4-1506. ~~The grant Reimbursement for short-term lodging and recovery assistance:~~

(a) is equal to ~~the lesser of~~ the average daily rate or the state rate for each night lodging was provided at no cost to the individual or the referring organization;

(b) is limited to a maximum of 5 nights' lodging *and associated costs* for each individual or family ~~for each calendar year~~;

(c) may be claimed ~~only~~ for lodging, *recovery assistance*, and *associated costs* provided in the state; and

(d) is exempt from the lodging and facility use tax imposed by 15-65-111 or the sales tax and use tax on accommodations imposed by 15-68-102.

(4) Participating establishments may offer lodging based on availability of rooms.

(5) The department of justice shall maintain a registry of designated organizations and shall provide a list of approved organizations to establishments on request. The department of justice shall seek comment from appropriate statewide nonprofit organizations when developing and updating the registry.

(6) ~~The grants~~ *Funds* provided in this section are ~~subject to available funding and are not guaranteed. The grant does~~ *Funds may not apply to the costs of providing lodging to an individual who is displaced by a major disaster declared by the president under 42 U.S.C. 5170 or 5191 and who receives financial assistance for temporary housing under 42 U.S.C. 5174.*

(7) The department of justice may adopt rules, prepare forms, and maintain records that are necessary to implement and administer this section.

(8) As used in this section, the following definitions apply:

(a) (i) "Average daily rate" means the total amount of lodging receipts received by the establishment during the night of the emergency stay without regard to local and state taxes received divided by the number of rooms the establishment received compensation for during the night of the emergency stay.

(ii) The term does not include grant money received pursuant to this section.

(b) "Designated organization" means a charitable organization or government entity approved by the department of justice to make referrals for emergency lodging.

(c) "Establishment" means a person or entity that makes sales of accommodations as defined in 15-68-101.

(d) "*Recovery assistance*" means *services designed to assist victims of crime by providing direct support, including emotional and psychological counseling, crisis intervention, and safety planning, aimed at stabilizing the victims' lives and helping them navigate the criminal justice system.*

~~(d)(e)~~ (e) "State rate" means the rate the state pays for state employees in travel status that is adopted by the department of administration. ~~(Terminates June 30, 2027--sec. 10, Ch. 758, L. 2023.)~~

Section 3. Section 44-4-1506, MCA, is amended to read:

"44-4-1506. (Temporary) Emergency lodging and recovery for victims of domestic violence or human trafficking account. (1) There is an emergency lodging *and recovery* for victims of domestic violence or human trafficking account in the state special revenue fund. The account is administered by the department of justice.

(2) The revenue allocated to the account as provided in 15-65-121(2)(f)(2)(l) must be deposited in the account and distributed as provided in 44-4-1505.

(3) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department of justice to provide grants to licensed establishments that provide short-term lodging *and recovery assistance* in the state to individuals and families that are victims of domestic violence or human trafficking pursuant to 44-4-1505. ~~(Terminates June 30, 2027--sec. 10, Ch. 758, L. 2023.)~~

Section 4. Section 12, Chapter 563, Laws of 2021, is amended to read:

“Section 12. Termination. (1) [Sections 4 through 5 and 6] terminate June 30, 2027.

(2) [Section 4] terminates June 30, 2025.”

Section 5. Section 10, Chapter 758, Laws of 2023, is amended to read:

“Section 10. Termination. (1) [Sections 1 through Section 6] terminate terminates June 30, 2027.

(2) [Section 3] terminates June 30, 2025.”

Section 6. Repealer. The following section of the Montana Code Annotated is repealed:

90-1-122. Lodging facility use tax allocation -- allowable uses -- unspent fund redistribution -- rulemaking -- fees.

Section 7. Effective dates. (1) Except as provided in subsection (2), [this act] is effective upon passage and approval.

(2) [Sections 1 through 3 and 6] are effective July 1, 2025.

Approved May 12, 2025

CHAPTER NO. 606

[SB 413]

AN ACT CREATING THE CRIME OF DISCLOSING EXPLICIT SYNTHETIC MEDIA; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Disclosing explicit synthetic media. (1) A person commits the offense of disclosing explicit synthetic media when the person knowingly or purposely:

(a) discloses explicit synthetic media and knows or reasonably should know that an identifiable person portrayed in whole or in part in the explicit synthetic media did not consent to the disclosure and that disclosure of the explicit synthetic media would cause the identifiable person substantial emotional distress;

(b) discloses explicit synthetic media with the intent to terrify, intimidate, threaten, harass, or injure an identifiable person portrayed in whole or in part in the explicit synthetic media; or

(c) possesses and threatens to disclose explicit synthetic media with the intent to obtain money or other valuable consideration from an identifiable person portrayed in whole or in part in the explicit synthetic media.

(2) (a) Except as provided in subsections (2)(b) and (2)(c), a person convicted of the offense of disclosing explicit synthetic media shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.

(b) On a second or subsequent conviction of the offense of disclosing explicit synthetic media, a person shall be fined an amount not to exceed \$10,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both.

(c) If the person portrayed in whole or in part in the explicit synthetic media is under 18 years of age at the time of the offense, the offender shall be fined an amount not to exceed \$10,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(3) Subsection (1) does not apply when the disclosure is made:

(a) for the purpose of reporting unlawful conduct;

(b) for legitimate scientific research or educational purposes; or

(c) in the normal course of civil or criminal legal proceedings and consistent with common practices or is protected by a court order that prohibits further dissemination.

(4) Nothing in this section may be construed to impose liability on an interactive computer service for content provided by another person unless the interactive computer service intentionally aids or abets disclosing explicit synthetic media.

(5) As used in this section, the following definitions apply:

(a) “Disclose” means to make available by any means to any person.

(b) “Explicit synthetic media” means synthetic media, also known as deepfakes, that depicts or appears to depict:

(i) an identifiable individual engaged in sexual conduct;

(ii) the genitals, breasts, pubic or rectal area, or other intimate parts of an identifiable individual, including an artificially generated depiction of the genitals, breasts, pubic or rectal area, or other intimate parts of an identifiable individual; or

(iii) the display or transfer of sexual bodily fluids onto any part of the body of an identifiable individual or from the body of an identifiable individual.

(c) “Identifiable individual” means an individual who is portrayed in whole or in part in synthetic media and who is recognizable by the individual’s face, likeness, or other distinguishing characteristic.

(d) “Sexual conduct” has the same meaning as provided in 45-5-625.

(e) “Synthetic media” means an image or video created or altered using technical means, including artificial intelligence, to realistically misrepresent an identifiable individual as engaging in conduct in which the identifiable individual did not engage.

(f) “Valuable consideration” includes but is not limited to sexually explicit images or video from the identifiable individual portrayed in the synthetic media.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 45, chapter 5, part 6, and the provisions of Title 45, chapter 5, part 6, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Applicability. [This act] applies to offenses committed on or after [the effective date of this act].

Approved May 12, 2025

CHAPTER NO. 607

[SB 429]

AN ACT GENERALLY REVISING LAWS RELATED TO DETERMINATION AND RESTORATION OF FITNESS IN CRIMINAL PROCEEDINGS; REVISING WHAT ACTS OR OMISSIONS MAY BE CONTEMPT; PROVIDING COMMITMENT PROCEDURES FOR EXAMINATION; PROVIDING

PROCEDURES FOR THE INVOLUNTARY ADMINISTRATION OF MEDICATION; REVISING PROVISIONS FOR PAYMENT OF COMMITMENT EXPENSES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 3-1-501, 3-5-901, 3-10-402, 3-11-303, 46-14-202, 46-14-206, AND 46-14-221, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-1-501, MCA, is amended to read:

“3-1-501. What acts or omissions are contempts – civil and criminal contempt. (1) The following acts or omissions in respect to a court of justice or proceedings in a court of justice are contempts of the authority of the court:

(a) disorderly, contemptuous, or insolent behavior toward the judge while holding the court tending to interrupt the due course of a trial or other judicial proceeding;

(b) a breach of the peace, boisterous conduct, or violent disturbance tending to interrupt the due course of a trial or other judicial proceeding;

(c) misbehavior in office or other willful neglect or violation of duty by an attorney, counsel, clerk, sheriff, coroner, or other person appointed or elected to perform a judicial or ministerial service;

(d) deceit or abuse of the process or proceedings of the court by a party to an action or special proceeding;

(e) disobedience of any lawful judgment, order, or process of the court;

(f) assuming to be an officer, attorney, or counsel of a court and acting as that individual without authority;

(g) rescuing any person or property in the custody of an officer by virtue of an order or process of the court;

(h) unlawfully detaining a witness or party to an action while going to, remaining at, or returning from the court where the action is on the calendar for trial;

(i) any other unlawful interference with the process or proceedings of a court;

(j) disobedience of a subpoena duly served or refusing to be sworn or answer as a witness;

(k) when summoned as a juror in a court, neglecting to attend or serve as a juror or improperly conversing with a party to an action to be tried at the court or with any other person in relation to the merits of the action or receiving a communication from a party or other person in respect to it without immediately disclosing the communication to the court;

(l) disobedience by a lower tribunal, magistrate, or officer of the lawful judgment, order, or process of a superior court or proceeding in an action or special proceeding contrary to law after the action or special proceeding is removed from the jurisdiction of the lower tribunal, magistrate, or officer.

(2) Disobedience of the lawful orders or process of a judicial officer is also a contempt of the authority of the officer.

(3) *Refusal or inability to admit a defendant, respondent, patient, or person who has been ordered to be committed, transferred, transported, or sentenced to or directed to be detained at the Montana state hospital or the custody of the director of the department of public health and human services related to a civil or criminal proceeding is not contempt if:*

(a) a bed is not available for the defendant, respondent, patient, or person;

(b) admission of the defendant, respondent, patient, or person will cause the census at the hospital to exceed its licensed capacity; or

(c) the information and records requested by the department or hospital are not received, including:

(i) *physical and psychiatric health information sufficient to:*

(A) *evaluate the immediate treatment needs and appropriate placement of the defendant, respondent, patient, or person, including the availability of less restrictive medically appropriate facilities; and*

(B) *coordinate care with the professional person, county attorney, court, or the person or entity transporting the respondent during the admission process;*

(ii) *documentation of legal authority to admit the respondent or patient; and*

(iii) *other information and records as required by administrative rule.*

(3)(4) A contempt may be either civil or criminal. A contempt is civil if the sanction imposed seeks to force the contemnor's compliance with a court order. A contempt is criminal if the court's purpose in imposing the penalty is to punish the contemnor for a specific act and to vindicate the authority of the court. If the penalty imposed is incarceration, a fine, or both, the contempt is civil if the contemnor can end the incarceration or avoid the fine by complying with a court order and is criminal if the contemnor cannot end the incarceration or avoid the fine by complying with a court order. If the court's purpose in imposing the sanction is to attempt to compel the contemnor's performance of an act, the court shall impose the sanction under 3-1-520 and may not impose a sanction under 45-7-309.

(4)(5) A person may be found guilty of and penalized for criminal contempt by proof beyond a reasonable doubt. The procedures provided in Title 46 apply to criminal contempt prosecutions, except those under 3-1-511."

Section 2. Section 3-5-901, MCA, is amended to read:

"3-5-901. State assumption of district court expenses. (1) There is a state-funded district court program under the judicial branch. Under this program, the office of court administrator shall fund all district court costs, except as provided in subsection (3). These costs include but are not limited to the following:

(a) salaries and benefits for:

(i) district court judges;

(ii) law clerks;

(iii) court reporters, as provided in 3-5-601;

(iv) juvenile probation officers, youth division offices staff, and assessment officers of the youth court;

(v) standing masters; and

(vi) other employees of the district court;

(b) in criminal cases:

(i) fees for transcripts of proceedings, as provided in 3-5-604;

(ii) witness fees and necessary expenses, as provided in 46-15-116;

(iii) juror fees and necessary expenses;

(iv) for a psychiatric examination under 46-14-202, the cost of the examination and other associated expenses, as provided in ~~46-14-202(4)~~ 46-14-202(5); and

~~(v) for commitment under 46-14-221, the cost of transporting the defendant to the custody of the director of the department of public health and human services to be placed in an appropriate facility of the department of public health and human services and of transporting the defendant back for any proceedings, as costs provided in 46-14-221(5)~~ 46-14-221(5);

(c) except as provided in 47-1-119, the district court expenses in all postconviction proceedings held pursuant to Title 46, chapter 21, and in all habeas corpus proceedings held pursuant to Title 46, chapter 22, and appeals from those proceedings;

(d) except as provided in 47-1-119, the following expenses incurred by the state in federal habeas corpus cases that challenge the validity of a conviction or of a sentence:

- (i) transcript fees;
- (ii) witness fees; and
- (iii) expenses for psychiatric examinations;

(e) except as provided in 47-1-119, the following expenses incurred by the state in a proceeding held pursuant to Title 41, chapter 3, part 4 or 6, that seeks temporary investigative authority of a youth, temporary legal custody of a youth, or termination of the parent-child legal relationship and permanent custody:

- (i) transcript fees;
- (ii) witness fees;
- (iii) expenses for medical and psychological evaluation of a youth or the youth's parent, guardian, or other person having physical or legal custody of the youth except for expenses for services that a person is eligible to receive under a public program that provides medical or psychological evaluation;

(iv) expenses associated with appointment of a guardian ad litem or child advocate for the youth; and

(v) expenses associated with court-ordered alternative dispute resolution;

(f) except as provided in 47-1-119, costs of juror and witness fees and witness expenses before a grand jury;

(g) costs of the court-sanctioned educational program concerning the effects of dissolution of marriage on children, as required in 40-4-226, and expenses of education when ordered for the investigation and preparation of a report concerning parenting arrangements, as provided in 40-4-215(2)(a);

(h) except as provided in 47-1-119, all district court expenses associated with civil jury trials if similar expenses were paid out of the district court fund or the county general fund in any previous year;

(i) all other costs associated with the operation and maintenance of the district court, including contract costs for court reporters who are independent contractors; and

(j) costs associated with the operation and maintenance of the youth court and youth court division operations pursuant to 41-5-111 and subsection (1)(a) of this section, except for those costs paid by other entities identified in Title 41, chapter 5.

(2) If a cost is not paid directly by the office of court administrator, the county shall pay the cost and the office of court administrator shall reimburse the county within 30 days of receipt of a claim.

(3) For the purposes of subsection (1), district court costs paid by the office of court administrator do not include:

(a) costs for clerks of district court and employees and expenses of the offices of the clerks of district court;

(b) costs of providing and maintaining district court office space; or

(c) charges incurred against a county by virtue of any provision of Title 7 or 46."

Section 3. Section 3-10-402, MCA, is amended to read:

"3-10-402. Proceedings. When a contempt is committed, whether or not it is in the immediate view and presence of the justice, the procedures contained in ~~3-1-501(3)~~ *3-1-501(4)* and ~~(4)~~ *(5)*, 3-1-511 through 3-1-518, and 3-1-520 through 3-1-523 apply."

Section 4. Section 3-11-303, MCA, is amended to read:

"3-11-303. Contempts city judge may punish for – procedure. (1) A city judge may punish for contempt persons guilty of only the following acts:

(a) disorderly, contemptuous, or insolent behavior toward the judge while holding the court tending to interrupt the due course of a trial or other judicial proceeding;

(b) a breach of the peace, boisterous conduct, or violent disturbance in the presence of the judge or in the immediate vicinity of the court held by the judge tending to interrupt the due course of a trial or other judicial proceeding;

(c) disobedience or resistance to the execution of a lawful order or process made or issued by the judge;

(d) disobedience to a subpoena served or refusal to be sworn or to answer as a witness;

(e) rescuing any person or property in the custody of an officer by virtue of an order or process of the court.

(2) The procedures contained in ~~3-1-501(3)~~ *3-1-501(4)* and ~~(4)~~ *(5)*, 3-1-511 through 3-1-518, and 3-1-520 through 3-1-523 apply.”

Section 5. Section 46-14-202, MCA, is amended to read:

“46-14-202. Examination of defendant – commitment procedures for examination of fitness – expenses. (1) ~~If the defendant or the defendant’s counsel files a written motion requesting an examination or if the issue of the~~ *a defendant’s fitness to proceed is raised by the court, the prosecution, or the defendant, or if defense counsel files a written motion requesting an examination of the defendant,* the court shall appoint at least one qualified psychiatrist, licensed clinical psychologist, or advanced practice registered nurse ~~or shall request the superintendent of the Montana state hospital to designate at least one qualified psychiatrist, licensed clinical psychologist, or advanced practice registered nurse, who may be or include the superintendent,~~ to examine and report upon the defendant’s mental condition.

(2) ~~(a) The~~ *Except as provided in subsection (6),* a court may order the defendant to be committed to a hospital ~~or, other~~ *another* suitable facility, ~~or the Montana state hospital~~ for the purpose of the examination for a period not exceeding 60 days or a longer period that the court determines to be necessary for the purpose and may direct that a qualified psychiatrist, licensed clinical psychologist, or advanced practice registered nurse retained by the defendant be permitted to witness and participate in the examination.

~~(b) On commitment to the Montana state hospital, the superintendent of the hospital shall designate at least one qualified psychiatrist, licensed clinical psychologist, or advanced practice registered nurse, who may be or may include the superintendent, to report on the defendant’s mental condition.~~

(3) ~~Except as provided in 46-14-206(2), a court ordering an examination of a defendant under this section may not require that a report of examination include:~~

~~(a) an opinion as to the capacity of the defendant to have a particular state of mind that is an element of the offense charged; or~~

~~(b) an opinion as to the capacity of the defendant, because of a mental disease or disorder or development disability, to appreciate the criminality of the defendant’s behavior or to conform the defendant’s behavior to the requirement of the law.~~

~~(3)(4) In the examination, any method may be employed that is accepted by the medical or psychological profession for the examination of those alleged to be suffering from mental disease or disorder.~~

~~(4) (a) The costs incurred for an examination ordered under subsection (2) must be paid as follows:~~

~~(i) if the issue of the defendant’s fitness to proceed was raised by the court or the examination was requested by the prosecution, the cost of the examination and other associated expenses must be paid by the court or;~~

~~in district court proceedings, by the office of court administrator, except as provided in subsection (4)(a)(iv);~~

~~(ii) if the examination was requested by the defendant or the defendant's counsel, the cost of the examination and other associated expenses must be paid by the defendant or, if the defendant was represented by an attorney pursuant to the Montana Public Defender Act, Title 47, chapter 1, by the office of state public defender, except as provided by subsection (4)(a)(iv);~~

~~(iii) if the examination was jointly requested by the prosecution and defense counsel or the need for the examination was jointly agreed to by the prosecution and defense, the cost of the examination and other associated expenses must be divided and paid equally by the court or, in district court proceedings, by the office of court administrator, and the defendant or, if the defendant was represented by an attorney assigned pursuant to the Montana Public Defender Act, Title 47, chapter 1, by the office of state public defender, except as provided in subsection (4)(a)(iv);~~

~~(iv) any costs for an examination performed by an employee of the department of public health and human services, any other associated expenses at a facility of the department of public health and human services, and any other associated expenses for which the legislature has made a general fund appropriation to the department of public health and human services may not be charged to the office of court administrator or the office of state public defender.~~

~~(b) For purposes of this subsection (4), "other associated expenses" means the following costs incurred in association with the commitment to a hospital or other suitable facility for the purpose of examination, regardless of whether the examination is done at the Montana state hospital or any other facility:~~

~~(i) the expenses of transporting the defendant from the place of detention to the place where the examination is performed and returning the defendant to detention, including personnel costs of the law enforcement agency by whom the defendant is detained;~~

~~(ii) housing expenses of the facility where the examination is performed; and~~

~~(iii) medical costs, including medical and dental care, including costs of medication.~~

~~(5) (a) The costs incurred for an examination ordered under subsection (2) must be paid as follows:~~

~~(i) if the issue of the defendant's fitness to proceed was raised by the court or the examination was requested by the prosecution, the cost of the examination and other associated expenses must be paid by the court or, in district court proceedings, by the office of court administrator, except as provided in subsection (5)(a)(iv);~~

~~(ii) if the examination was requested by the defendant or the defendant's counsel, the cost of the examination and other associated expenses must be paid by the defendant or, if the defendant was represented by an attorney pursuant to the Montana Public Defender Act, Title 47, chapter 1, by the office of state public defender, except as provided by subsection (5)(a)(iv);~~

~~(iii) if the examination was jointly requested by the prosecution and defense counsel or the need for the examination was jointly agreed to by the prosecution and defense, the cost of the examination and other associated expenses must be divided and paid equally by the court or, in district court proceedings, by the office of court administrator, and the defendant or, if the defendant was represented by an attorney assigned pursuant to the Montana Public Defender Act, Title 47, chapter 1, by the office of state public defender, except as provided in subsection (5)(a)(iv);~~

(iv) any costs for an examination performed by an employee of the department of public health and human services, any other associated expenses at a facility of the department of public health and human services, and any other associated expenses for which the legislature has made a general fund appropriation to the department of public health and human services may not be charged to the office of court administrator or the office of state public defender.

(b) For purposes of this subsection (5), "other associated expenses" means the following costs incurred in association with the commitment to a hospital or other suitable facility for the purpose of examination, regardless of whether the examination is done at the Montana state hospital or any other facility:

(i) the expenses of transporting the defendant from the place of detention to the place where the examination is performed and returning the defendant to detention, including personnel costs of the law enforcement agency by whom the defendant is detained;

(ii) housing expenses of the facility where the examination is performed; and

(iii) medical costs, including medical and dental care, including costs of medication.

(6) A court may not order the superintendent of the Montana state hospital to designate a qualified psychiatrist, licensed clinical psychologist, or advanced practice registered nurse to examine or report on the defendant's mental condition unless there is no person located within the county of venue of the committing court who is willing, able, or available to perform an examination."

Section 6. Section 46-14-206, MCA, is amended to read:

"46-14-206. Report of examination. (1) A report of the examination ordered under 46-14-202 must include the following:

(a) a description of the nature of the examination;

(b) a diagnosis of the mental condition of the defendant, including an opinion as to whether the defendant suffers from a mental disorder, as defined in 53-21-102, and may require commitment or is seriously developmentally disabled, as defined in 53-20-102; and

(c) if the defendant suffers from a mental disease or disorder or developmental disability, an opinion as to the defendant's capacity to understand the proceedings against the defendant and to assist in the defendant's own defense;

(d) when directed by the court, an opinion as to the capacity of the defendant to have a particular state of mind that is an element of the offense charged; and

(e) when directed by the court, an opinion as to the capacity of the defendant, because of a mental disease or disorder or developmental disability, to appreciate the criminality of the defendant's behavior or to conform the defendant's behavior to the requirement of the law.

(2) A court may direct that a report of examination include:

(a) an opinion as to the capacity of the defendant to have a particular state of mind that is an element of the offense charged; and

(b) an opinion as to the capacity of the defendant, because of a mental disease or disorder or developmental disability, to appreciate the criminality of the defendant's behavior or to conform the defendant's behavior to the requirement of law, when:

(i) the parties, having received an opinion that a defendant lacks fitness to proceed, stipulate to the defendant's lack of fitness;

(ii) necessary for psychiatric or psychological testimony at trial;

(iii) a defendant raises a defense of mental disease or disorder or developmental disability under the circumstances described in 46-14-311(1); or

(iv) necessary for consideration of mental disease or disorder or developmental disability at sentencing.

(2)(3) If the examination cannot be conducted by reason of the unwillingness of the defendant to participate in the examination, the report must state that fact and must include, if possible, an opinion as to whether the unwillingness of the defendant was the result of the mental disease or disorder or developmental disability.”

Section 7. Section 46-14-221, MCA, is amended to read:

~~“46-14-221. Determination of fitness to proceed – effect of procedure on finding of unfitness – expenses – involuntary treatment – rulemaking authority.~~ (1) ~~(a) The~~ *When the* issue of the defendant’s fitness to proceed may be raised by the court, by the defendant or the defendant’s counsel, or by the prosecutor. ~~When the issue is raised, and an examination of the defendant has been completed under 46-14-202, it the defendant’s fitness must be determined by the court.~~

(b) If neither the prosecutor nor the defendant’s counsel contests the finding of the report filed under 46-14-206, the court may make the determination on the basis of the report.

(c) If the finding is contested, the court shall hold a hearing on the issue. If the report is received in evidence upon the hearing, the parties have the right to subpoena and cross-examine the psychiatrists or licensed clinical psychologists who joined in the report and to offer evidence upon the issue.

(d) *Except as provided in 46-14-206(2), in determining whether a defendant lacks fitness to proceed, the court shall restrict its analysis of the issues to:*

(i) *whether the defendant suffers from a mental disorder, as defined in 53-21-102, or is seriously developmentally disabled, as defined in 53-20-102;*

(ii) *whether the defendant may require commitment; and*

(iii) *if the defendant suffers from a mental disease or disorder or developmental disability, whether the defendant has the capacity to understand the proceedings against the defendant and to assist in the defendant’s own defense.*

(2) (a) If the court determines that the defendant lacks fitness to proceed, the proceeding against the defendant must be suspended, except as provided in subsection ~~(4)~~ (4), and the court shall commit the defendant to ~~the custody of the director of the department of public health and human services to be placed in an appropriate mental health facility, as defined in 53-21-102, or residential facility, as defined in 53-20-102, or to the custody of the director of the department of public health and human services for so long as the unfitness endures or until disposition of the defendant is made pursuant to this section, whichever occurs first.~~

(b) *The court may not commit the defendant to a private mental health facility or hospital without the express consent of the facility or hospital.*

(b) ~~The facility shall develop an individualized treatment plan to assist the defendant to gain fitness to proceed. The treatment plan may include a physician’s prescription of reasonable and appropriate medication that is consistent with accepted medical standards. If the defendant refuses to comply with the treatment plan, the facility may petition the court for an order requiring compliance. The defendant has a right to a hearing on the petition. The court shall enter into the record a detailed statement of the facts upon which an order is made, and if compliance with the individualized treatment plan is ordered, the court shall also enter into the record specific findings that the state has proved an overriding justification for the order and that the treatment being ordered is medically appropriate.~~

(3)(3) (a) *The committing court shall, after receiving notice from the department of public health and human services to the court, the defendant or the defendant’s counsel, and county attorney that a defendant committed to the*

Montana state hospital for a fitness evaluation under 46-14-202 or restoration to fitness under 46-14-221 has been determined to be fit or restored to fitness, order the defendant to be returned to the committing county and set the matter for trial. The committing court shall also, for any incarcerated defendant, within 90 days of ordering commitment, review the defendant's fitness to proceed status related to a commitment ordered under subsection (2). If the court finds that the defendant has not been admitted to an appropriate mental health facility, residential facility, or to the custody of the director of the department of public health and human services under subsection (2) and is still unfit to proceed and that it does not appear that the defendant will become fit to proceed within the reasonably foreseeable future, because the defendant has a mental disorder or mental illness, the court shall assess whether the proceeding against the defendant must be dismissed, except as provided in subsection (4) or whether alternatives to incarceration, if applicable, or to commitment are appropriate under the circumstances, including whether the involuntary administration of medication is necessary.

(b) If the court determines that the defendant lacks fitness to proceed because the defendant has a mental disorder, the proceeding against the defendant must be dismissed and the prosecutor shall petition the court in the manner provided in Title 53, chapter 21, to determine the disposition of the defendant pursuant to those provisions.

(b) (i) If, on review of the defendant's custodial status related to any commitment ordered pursuant to subsection (2), it is determined that an incarcerated defendant requires treatment, including administration of medication, the county attorney may petition the court for an order requiring compliance with treatment, including involuntary administration of medication.

(ii) The defendant has a right to a hearing on the petition. The judge shall appoint a professional person and set a date and hold the hearing on the petition without undue delay. The court shall enter into the record a detailed statement of the facts upon which an order is made, and if involuntary administration of medication or other treatment is ordered, the court shall also enter into the record the specific findings that the state has proved an overriding justification for the order and that the treatment being ordered is medically appropriate. The court may authorize the chief medical officer of a facility or a physician, or the chief medical officer of the department of public health and human services or a physician or advanced practice registered nurse who is under the supervision of or employed by the department of public health and human services, to be designated by the court to administer appropriate medication involuntarily. The department may contract with qualified providers to facilitate treatment within an incarcerative or custodial setting.

(c) (i) On admission to an appropriate mental health facility, residential facility, or to the custody of the director of the department of public health and human services under subsection (2), the facility shall evaluate the defendant and develop an individualized treatment plan to assist the defendant to gain or regain fitness to proceed. The treatment plan may include a physician's prescription of reasonable and appropriate medication that is consistent with accepted medical standards.

(ii) If the defendant refuses to comply with the treatment plan, the facility may involuntarily administer medications to treat a defendant pursuant to the determination of the facility's treatment review committee and involuntary medication review board, if the following criteria are met:

- (A) the defendant suffers from a mental illness or mental disorder;*
- (B) the defendant has been determined to lack fitness to proceed;*

(C) the involuntary administration of medication is in the best medical interests of the defendant;

(D) the defendant is either gravely disabled or poses a likelihood of serious harm to self or others;

(E) the facility has established a treatment review committee and an involuntary medication review board for the involuntary administration of psychotropic medications; and

(F) the policies and procedures relating to the involuntary medication review board require provision to the defendant of a notice of rights and notice of an involuntary medication hearing, an involuntary medication hearing, and an appeal process.

(d) The department of public health and human services shall adopt rules governing treatment review and involuntary administration of medication by a mental health facility, as defined in 53-21-102, a residential facility, as defined in 53-20-102, or the Montana state hospital.

(e) After the initial review of the defendant's custodial status under subsection (3)(a), the court shall review the defendant's custodial status every 30 days or at an interval the court determines appropriate under the circumstances. If on subsequent review the defendant is still unfit, it does not appear that the defendant will become fit within the reasonably foreseeable future, and that alternatives to forensic commitment are not appropriate under the circumstances, the court shall order the proceeding against the defendant dismissed without prejudice and the prosecutor may petition the court in the manner provided in Title 53, chapter 21, to determine the disposition of the defendant pursuant to those provisions.

(e)(f) If the court determines that the defendant lacks fitness to proceed because the defendant has a developmental disability as defined in 53-20-102, the proceeding against the defendant must be dismissed and the prosecutor shall petition the court in the manner provided in Title 53, chapter 20, to determine the disposition of the defendant pursuant to those provisions.

(4)(4) The fact that the defendant is unfit to proceed does not preclude any legal objection to the prosecution that is susceptible to fair determination prior to trial and that is made without the personal participation of the defendant.

(5) Except as provided in subsection (6), the expenses of transporting the defendant to the custody of the director of the department of public health and human services to be placed in an appropriate facility of the department of public health and human services, of the care, custody, and treatment of the defendant at the facility, and of transporting the defendant back are payable by the court or, in district court proceedings, by the office of court administrator.

(6) The cost of care, custody, and treatment at a facility for which the legislature has made a general fund appropriation to the department of public health and human services may not be charged to the office of court administrator.

(5) Except as provided in subsection (6), the expenses of transporting the defendant to the custody of the director of the department of public health and human services to be placed in an appropriate facility of the department of public health and human services, of the care, custody, and treatment of the defendant at the facility, and of transporting the defendant back are payable by the court or, in district court proceedings, by the office of court administrator.

(6) The cost of care, custody, and treatment at a facility for which the legislature has made a general fund appropriation to the department of public health and human services may not be charged to the office of court administrator."

Section 8. Prioritization of admissions. The Montana state hospital shall prioritize admissions for evaluations and treatment as follows:

(1) first priority shall be given to a pretrial defendant who has been ordered committed to be evaluated and treated under 46-14-221;

(2) second priority shall be given to a pretrial defendant charged with a crime of violence, as defined in 46-18-104, with an order of transport to the Montana state hospital; and

(3) as otherwise established by the department by administrative rule.

Section 9. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 10. Effective date. [This act] is effective on passage and approval.

Approved May 12, 2025

CHAPTER NO. 608

[SB 430]

AN ACT GENERALLY REVISING LAWS RELATED TO THE CIVIL COMMITMENT AND EMERGENCY DETENTION OF MENTALLY ILL PERSONS; ESTABLISHING CONDITIONS THAT MUST BE MET BEFORE TRANSPORTING OR TRANSFERRING A PERSON TO THE MONTANA STATE HOSPITAL; REVISING WHAT ACTIONS OR OMISSIONS ARE CONTEMPT; SUPERSEDING THE UNFUNDED MANDATE LAWS; AMENDING SECTIONS 3-1-501, 3-10-402, 3-11-303, 53-21-102, 53-21-126, 53-21-127, 53-21-129, 53-21-181, AND 53-21-193, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-1-501, MCA, is amended to read:

“3-1-501. What acts or omissions are contempts – civil and criminal contempt. (1) The following acts or omissions in respect to a court of justice or proceedings in a court of justice are contempts of the authority of the court:

(a) disorderly, contemptuous, or insolent behavior toward the judge while holding the court tending to interrupt the due course of a trial or other judicial proceeding;

(b) a breach of the peace, boisterous conduct, or violent disturbance tending to interrupt the due course of a trial or other judicial proceeding;

(c) misbehavior in office or other willful neglect or violation of duty by an attorney, counsel, clerk, sheriff, coroner, or other person appointed or elected to perform a judicial or ministerial service;

(d) deceit or abuse of the process or proceedings of the court by a party to an action or special proceeding;

(e) disobedience of any lawful judgment, order, or process of the court;

(f) assuming to be an officer, attorney, or counsel of a court and acting as that individual without authority;

(g) rescuing any person or property in the custody of an officer by virtue of an order or process of the court;

(h) unlawfully detaining a witness or party to an action while going to, remaining at, or returning from the court where the action is on the calendar for trial;

(i) any other unlawful interference with the process or proceedings of a court;

(j) disobedience of a subpoena duly served or refusing to be sworn or answer as a witness;

(k) when summoned as a juror in a court, neglecting to attend or serve as a juror or improperly conversing with a party to an action to be tried at the court or with any other person in relation to the merits of the action or receiving a communication from a party or other person in respect to it without immediately disclosing the communication to the court;

(l) disobedience by a lower tribunal, magistrate, or officer of the lawful judgment, order, or process of a superior court or proceeding in an action or special proceeding contrary to law after the action or special proceeding is removed from the jurisdiction of the lower tribunal, magistrate, or officer.

(2) Disobedience of the lawful orders or process of a judicial officer is also a contempt of the authority of the officer.

(3) Refusal or inability to admit a defendant, respondent, patient, or person who has been ordered to be committed, transferred, transported, or sentenced to or directed to be detained at the Montana state hospital or the custody of the director of the department of public health and human services related to a civil or criminal proceeding is not contempt if:

(a) a bed is not available for the defendant, respondent, patient, or person;

(b) admission of the defendant, respondent, patient, or person will cause the census at the hospital to exceed its licensed capacity; or

(c) the information and records requested by the department or hospital are not received, including:

(i) physical and psychiatric health information sufficient to:

(A) evaluate the immediate treatment needs and appropriate placement of the defendant, respondent, patient, or person, including the availability of less restrictive medically appropriate facilities; and

(B) coordinate care with the professional person, county attorney, court, or the person or entity transporting the respondent during the admission process;

(ii) documentation of legal authority to admit the respondent or patient; and

(iii) other information and records as required by administrative rule.

~~(3)~~(4) A contempt may be either civil or criminal. A contempt is civil if the sanction imposed seeks to force the contemnor's compliance with a court order. A contempt is criminal if the court's purpose in imposing the penalty is to punish the contemnor for a specific act and to vindicate the authority of the court. If the penalty imposed is incarceration, a fine, or both, the contempt is civil if the contemnor can end the incarceration or avoid the fine by complying with a court order and is criminal if the contemnor cannot end the incarceration or avoid the fine by complying with a court order. If the court's purpose in imposing the sanction is to attempt to compel the contemnor's performance of an act, the court shall impose the sanction under 3-1-520 and may not impose a sanction under 45-7-309.

~~(4)~~(5) A person may be found guilty of and penalized for criminal contempt by proof beyond a reasonable doubt. The procedures provided in Title 46 apply to criminal contempt prosecutions, except those under 3-1-511."

Section 2. Section 3-10-402, MCA, is amended to read:

"3-10-402. Proceedings. When a contempt is committed, whether or not it is in the immediate view and presence of the justice, the procedures contained in ~~3-1-501(3)~~ *3-1-501(4)* and ~~(4)~~ (5), 3-1-511 through 3-1-518, and 3-1-520 through 3-1-523 apply."

Section 3. Section 3-11-303, MCA, is amended to read:

“3-11-303. Contempts city judge may punish for – procedure. (1) A city judge may punish for contempt persons guilty of only the following acts:

(a) disorderly, contemptuous, or insolent behavior toward the judge while holding the court tending to interrupt the due course of a trial or other judicial proceeding;

(b) a breach of the peace, boisterous conduct, or violent disturbance in the presence of the judge or in the immediate vicinity of the court held by the judge tending to interrupt the due course of a trial or other judicial proceeding;

(c) disobedience or resistance to the execution of a lawful order or process made or issued by the judge;

(d) disobedience to a subpoena served or refusal to be sworn or to answer as a witness;

(e) rescuing any person or property in the custody of an officer by virtue of an order or process of the court.

(2) The procedures contained in ~~3-1-501(3)~~ *3-1-501(4)* and ~~(4) (5)~~, 3-1-511 through 3-1-518, and 3-1-520 through 3-1-523 apply.”

Section 4. Section 53-21-102, MCA, is amended to read:

“53-21-102. Definitions. As used in this chapter, the following definitions apply:

(1) “Abuse” means any willful, negligent, or reckless mental, physical, sexual, or verbal mistreatment or maltreatment or misappropriation of personal property of any person receiving treatment in a mental health facility that insults the psychosocial, physical, or sexual integrity of any person receiving treatment in a mental health facility.

(2) “Behavioral health inpatient facility” means a facility or a distinct part of a facility of 16 beds or less licensed by the department that is capable of providing secure, inpatient psychiatric services, including services to persons with mental illness and co-occurring chemical dependency.

(3) “Board” or “mental disabilities board of visitors” means the mental disabilities board of visitors created by 2-15-211.

(4) “Commitment” means an order by a court requiring an individual to receive treatment for a mental disorder.

(5) “Community facility” means a facility that provides psychiatric or chemical dependency evaluation, treatment, and short-term habilitation of persons with a mental illness or disorder in a community setting and that provides any of the following:

(a) case management services;

(b) medication;

(c) stabilizing treatment;

(d) short-term inpatient treatment;

(e) chemical dependency treatment; or

(f) assertive community treatment.

~~(5)(6)~~ (6) “Court” means any district court of the state of Montana.

~~(6)(7)~~ (7) “Department” means the department of public health and human services provided for in 2-15-2201.

~~(7)(8)~~ (8) “Emergency situation” means:

(a) a situation in which any person is in imminent danger of death or bodily harm from the activity of a person who appears to be suffering from a mental disorder and appears to require commitment appears:

(i) to be, due to a mental disorder and due to the person’s conduct, in imminent danger of death or harm to the person’s self or another; and

(ii) to require commitment; ~~or~~

(b) a situation in which any person who appears to be suffering from a mental disorder and appears to require commitment is substantially unable to provide for the person's own basic needs of food, clothing, shelter, health, or safety and:

(i) *the situation presents a danger of death or bodily injury to the person's self or another; or*

(ii) *the situation reflects a consistent and pervasive history of being unable to provide for the person's own basic needs of food, clothing, shelter, health, or safety; or*

(c) *a situation in which a person's criminal charges have been dismissed and the person must be involuntarily committed due to having been found unfit to proceed and determined to be incapable of being restored to fitness within the reasonably foreseeable future.*

(8)(9) "Friend of respondent" means any person willing and able to assist a person suffering from a mental disorder and requiring commitment or a person alleged to be suffering from a mental disorder and requiring commitment in dealing with legal proceedings, including consultation with legal counsel and others.

(9)(10) (a) "Mental disorder" or "*mental illness*" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions.

(b) The term does not include:

(i) addiction to drugs or alcohol;

(ii) drug or alcohol intoxication;

(iii) intellectual disability; or

(iv) epilepsy.

(c) A mental disorder may co-occur with addiction or chemical dependency.

(10)(11) "Mental health facility" or "facility" means the state hospital, the Montana mental health nursing care center, or a hospital, a behavioral health inpatient facility, *a community facility, a category D assisted living facility, a community program, an appropriate course of inpatient treatment*, a mental health center, a residential treatment facility, or a residential treatment center licensed or certified by the department that provides treatment to children or adults with a mental disorder. A correctional institution or facility or jail is not a mental health facility within the meaning of this part.

(11)(12) "Mental health professional" means:

(a) a certified professional person;

(b) a physician licensed under Title 37, chapter 3;

(c) a clinical professional counselor licensed under Title 37, chapter 39;

(d) a psychologist licensed under Title 37, chapter 17;

(e) a clinical social worker licensed under Title 37, chapter 39;

(f) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in psychiatric mental health nursing;

(g) a physician assistant licensed under Title 37, chapter 20, with a clinical specialty in psychiatric mental health; or

(h) a marriage and family therapist licensed under Title 37, chapter 39.

(12)(13) (a) "Neglect" means failure to provide for the biological and psychosocial needs of any person receiving treatment in a mental health facility, failure to report abuse, or failure to exercise supervisory responsibilities to protect patients from abuse and neglect.

(b) The term includes but is not limited to:

(i) deprivation of food, shelter, appropriate clothing, nursing care, or other services;

(ii) failure to follow a prescribed plan of care and treatment; or

(iii) failure to respond to a person in an emergency situation by indifference, carelessness, or intention.

~~(13)~~(14) "Next of kin" includes but is not limited to the spouse, parents, adult children, and adult brothers and sisters of a person.

~~(14)~~(15) "Patient" means a person *civily* committed by the court for treatment for any period of time or who is voluntarily admitted for treatment for any period of time.

~~(15)~~(16) "Peace officer" means any sheriff, deputy sheriff, marshal, police officer, or other peace officer.

~~(16)~~(17) "Professional person" means:

(a) a medical doctor;

(b) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in psychiatric mental health nursing;

(c) a licensed psychologist;

(d) a physician assistant licensed under Title 37, chapter 20, with a clinical specialty in psychiatric mental health; or

(e) a person who has been certified, as provided for in 53-21-106, by the department.

~~(17)~~(18) "Reasonable medical certainty" means reasonable certainty as judged by the standards of a professional person.

~~(18)~~(19) "Respondent" means a person alleged in a petition filed pursuant to this part to be suffering from a mental disorder and requiring commitment.

~~(20)~~ "Short term" means a period of not more than 6 months.

~~(19)~~(21) "State hospital" means the Montana state hospital."

Section 5. Section 53-21-126, MCA, is amended to read:

"53-21-126. (Temporary) Trial or hearing on petition. (1) The respondent must be present unless the respondent's presence has been waived as provided in 53-21-119(2), and the respondent must be represented by counsel at all stages of the trial. The trial must be limited to the determination of whether or not the respondent is suffering from a mental disorder and requires commitment. At the trial, the court shall consider all the facts relevant to the issues of whether the respondent is suffering from a mental disorder. If the court determines that the respondent is suffering from a mental disorder, the court shall then determine whether the respondent requires commitment. In determining whether the respondent requires commitment and the appropriate disposition under 53-21-127, the court shall consider the following:

(a) whether the respondent, because of a mental disorder, is substantially unable to provide for the respondent's own basic needs of food, clothing, shelter, health, or safety;

(b) whether the respondent has recently, because of a mental disorder and through an act or an omission, caused self-injury or injury to others;

(c) whether, because of a mental disorder, there is an imminent threat of injury to the respondent or to others because of the respondent's acts or omissions; and

(d) whether the respondent's mental disorder, as demonstrated by the respondent's recent acts or omissions, will, if untreated, predictably result in deterioration of the respondent's mental condition to the point at which the respondent will become a danger to self or to others or will be unable to provide for the respondent's own basic needs of food, clothing, shelter, health, or safety. Predictability may be established by the respondent's relevant medical history.

(2) The standard of proof in a hearing held pursuant to this section is proof beyond a reasonable doubt with respect to any physical facts or evidence and clear and convincing evidence as to all other matters. However, the respondent's mental disorder must be proved to a reasonable medical certainty. Imminent

threat of self-inflicted injury or injury to others must be proved by overt acts or omissions, sufficiently recent in time as to be material and relevant as to the respondent's present condition.

(3) The professional person appointed by the court must be present for the trial and subject to cross-examination. The professional person's presence may be accomplished by the use of two-way electronic audio-video communication. The trial is governed by the Montana Rules of Civil Procedure. However, if the issues are tried by a jury, at least two-thirds of the jurors shall concur on a finding that the respondent is suffering from a mental disorder and requires commitment. The written report of the professional person that indicates the professional person's diagnosis may be attached to the petition, but any matter otherwise inadmissible, such as hearsay matter, is not admissible merely because it is contained in the report. The court may order the trial closed to the public for the protection of the respondent.

(4) The professional person may testify as to the ultimate issue of whether the respondent is suffering from a mental disorder and requires commitment. This testimony is insufficient unless accompanied by evidence from the professional person or others that:

(a) the respondent, because of a mental disorder, is substantially unable to provide for the respondent's own basic needs of food, clothing, shelter, health, or safety;

(b) the respondent has recently, because of a mental disorder and through an act or an omission, caused self-injury or injury to others;

(c) because of a mental disorder, there is an imminent ~~threat~~ *danger* of injury to the respondent or to others because of the respondent's acts or omissions; ~~or~~

(d) (i) the respondent's mental disorder:

(A) has resulted in recent acts, omissions, or behaviors that create difficulty in protecting the respondent's life or health;

(B) is treatable, with a reasonable prospect of success;

(C) has resulted in the respondent's refusing or being unable to consent to voluntary admission for treatment; and

(ii) will, if untreated, predictably result in deterioration of the respondent's mental condition to the point at which the respondent will become a danger to self or to others or will be unable to provide for the respondent's own basic needs of food, clothing, shelter, health, or safety. Predictability may be established by the respondent's relevant medical history; *or*

(e) *whether an emergency situation as defined in 53-21-102 exists.*

(5) The court, upon the showing of good cause and when it is in the best interests of the respondent, may order a change of venue.

(6) An individual with a primary diagnosis of a mental disorder who also has a co-occurring diagnosis of chemical dependency may satisfy criteria for commitment under this part.

53-21-126. (Effective July 1, 2025) Trial or hearing on petition.

(1) The respondent must be present unless the respondent's presence has been waived as provided in 53-21-119(2), and the respondent must be represented by counsel at all stages of the trial. The trial must be limited to the determination of whether or not the respondent is suffering from a mental disorder and requires commitment. At the trial, the court shall consider all the facts relevant to the issues of whether the respondent is suffering from a mental disorder. If the court determines that the respondent is suffering from a mental disorder, the court shall then determine whether the respondent requires commitment. In determining whether the respondent requires commitment and the appropriate disposition under 53-21-127, the court shall consider the following:

(a) whether the respondent, because of a mental disorder, is substantially unable to provide for the respondent's own basic needs of food, clothing, shelter, health, or safety;

(b) whether the respondent has recently, because of a mental disorder and through an act or an omission, caused self-injury or injury to others;

(c) whether, because of a mental disorder, there is an imminent ~~threat~~ *danger* of injury to the respondent or to others because of the respondent's acts or omissions; ~~and~~

(d) (i) whether the respondent's mental disorder, as demonstrated by the respondent's recent acts or omissions, will, if untreated, predictably result in deterioration of the respondent's mental condition to the point at which the respondent will:

(A) become a danger to self or to others; or

(B) be unable to provide for the respondent's own basic needs of food, clothing, shelter, health, or safety.

(ii) Predictability may be established by the respondent's relevant medical history; *and*

(e) *whether an emergency situation as defined in 53-21-102 exists.*

(2) The standard of proof in a hearing held pursuant to this section is proof beyond a reasonable doubt with respect to any physical facts or evidence and clear and convincing evidence as to all other matters. However, the respondent's mental disorder must be proved to a reasonable medical certainty. Imminent threat of self-inflicted injury or injury to others must be proved by overt acts or omissions, sufficiently recent in time as to be material and relevant as to the respondent's present condition.

(3) The professional person appointed by the court must be present for the trial and subject to cross-examination. The professional person's presence may be accomplished by the use of two-way electronic audio-video communication. The trial is governed by the Montana Rules of Civil Procedure. However, if the issues are tried by a jury, at least two-thirds of the jurors shall concur on a finding that the respondent is suffering from a mental disorder and requires commitment. The written report of the professional person that indicates the professional person's diagnosis may be attached to the petition, but any matter otherwise inadmissible, such as hearsay matter, is not admissible merely because it is contained in the report. The court may order the trial closed to the public for the protection of the respondent.

(4) The professional person may testify as to the ultimate issue of whether the respondent is suffering from a mental disorder and requires commitment. This testimony is insufficient unless accompanied by evidence from the professional person or others that:

(a) the respondent, because of a mental disorder, is substantially unable to provide for the respondent's own basic needs of food, clothing, shelter, health, or safety;

(b) the respondent has recently, because of a mental disorder and through an act or an omission, caused self-injury or injury to others;

(c) because of a mental disorder, there is an imminent ~~threat~~ *danger* of injury to the respondent or to others because of the respondent's acts or omissions; ~~or~~

(d) (i) the respondent's mental disorder:

(A) has resulted in recent acts, omissions, or behaviors that create difficulty in protecting the respondent's life or health;

(B) is treatable, with a reasonable prospect of success;

(C) has resulted in the respondent's refusing or being unable to consent to voluntary admission for treatment; and

(ii) will, if untreated, predictably result in deterioration of the respondent's mental condition to the point at which the respondent will become a danger to self or to others or will be unable to provide for the respondent's own basic needs of food, clothing, shelter, health, or safety. Predictability may be established by the respondent's relevant medical history; or

(e) whether an emergency situation as defined in 53-21-102 exists.

(5) The court, upon the showing of good cause and when it is in the best interests of the respondent, may order a change of venue.

(6) An individual with a primary diagnosis of a mental disorder who also has a co-occurring diagnosis of chemical dependency may satisfy criteria for commitment under this part.

(7) An individual with a primary diagnosis of Alzheimer's disease, other forms of dementia, or traumatic brain injury may be committed under this part only if the person meets the criteria outlined in subsection (1)(b), (1)(c), or (1)(d)(i)(A)."

Section 6. Section 53-21-127, MCA, is amended to read:

"53-21-127. (Temporary) Posttrial disposition. (1) If, upon trial, it is determined that the respondent is not suffering from a mental disorder or does not require commitment within the meaning of this part, the respondent must be discharged and the petition dismissed.

(2) If it is determined that the respondent is suffering from a mental disorder and requires commitment within the meaning of this part, the court shall hold a posttrial disposition hearing. The disposition hearing must be held within 5 days (including Saturdays, Sundays, and holidays unless the fifth day falls on a Saturday, Sunday, or holiday), during which time the court may order further evaluation and treatment of the respondent.

(3) (a) At the conclusion of the disposition hearing and pursuant to the provisions in subsection (7), the court shall:

(a)(i) subject to the provisions of 53-21-193, commit the respondent to the state hospital or to a behavioral health inpatient facility for a period of not more than 3 months;

(b)(ii) commit the respondent to a community facility, which may include a category D assisted living facility, or a community program or to any appropriate course of treatment, which may include housing or residential requirements or conditions as provided in 53-21-149, for a period of:

(i)(A) not more than 3 months; or

(ii)(B) not more than 6 months in order to provide the respondent with a less restrictive commitment in the community rather than a more restrictive placement in the state hospital if a respondent has been previously involuntarily committed for inpatient treatment in a mental health facility and the court determines that the admission of evidence of the previous involuntary commitment is relevant to the criterion of predictability, as provided in 53-21-126(1)(d), and outweighs the prejudicial effect of its admission, as provided in 53-21-190; or

(c)(ii) commit the respondent to the Montana mental health nursing care center for a period of not more than 3 months if the following conditions are met:

(i)(A) the respondent meets the admission criteria of the center as described in 53-21-411 and established in administrative rules of the department; and

(ii)(B) the superintendent of the center has issued a written authorization specifying a date and time for admission.

(b) *The court may not commit the respondent to a private mental health facility or hospital without the express consent of the facility or hospital.*

(4) Except as provided in subsection ~~(3)(b)(ii)~~ (3)(a)(ii)(A), a treatment ordered pursuant to this section may not affect the respondent's custody or course of treatment for a period of more than 3 months.

(5) In determining which of the alternatives in subsection (3) to order, the court shall choose the least restrictive alternatives necessary to protect the respondent and the public and to permit effective treatment.

(6) The court may authorize the chief medical officer of a facility or a physician designated by the court to administer appropriate medication involuntarily if the court finds that involuntary medication is necessary to protect the respondent or the public or to facilitate effective treatment. Medication may not be involuntarily administered to a patient unless the chief medical officer of the facility or a physician designated by the court approves it prior to the beginning of the involuntary administration and unless, if possible, a medication review committee reviews it prior to the beginning of the involuntary administration or, if prior review is not possible, within 5 working days after the beginning of the involuntary administration. The medication review committee must include at least one person who is not an employee of the facility or program. The patient and the patient's attorney or advocate, if the patient has one, must receive adequate written notice of the date, time, and place of the review and must be allowed to appear and give testimony and evidence. The involuntary administration of medication must be again reviewed by the committee 14 days and 90 days after the beginning of the involuntary administration if medication is still being involuntarily administered. The mental disabilities board of visitors and the director of the department of public health and human services must be fully informed of the matter within 5 working days after the beginning of the involuntary administration. The director shall report to the governor on an annual basis.

(7) Satisfaction of any one of the criteria listed in 53-21-126(1) justifies commitment pursuant to this chapter. However, if the court relies solely ~~upon on any of the criterion~~ criteria provided in 53-21-126(1)(d), the court may require commitment only to a community facility, which may include a category D assisted living facility, or a program or an appropriate course of treatment, as provided in subsection ~~(3)(b)~~ (3)(a)(ii), and may not require commitment at the state hospital, a behavioral health inpatient facility, or the Montana mental health nursing care center.

(8) In ordering commitment pursuant to this section, the court shall *attest that the court has not relied solely on the criteria provided in 53-21-126(1)(d) and shall* make the following findings of fact:

(a) a detailed statement of the facts upon which the court found the respondent to be suffering from a mental disorder and requiring commitment;

(b) the alternatives for treatment that were considered;

(c) the alternatives available for treatment of the respondent;

(d) the reason that any treatment alternatives were determined to be unsuitable for the respondent;

(e) the name of the facility, program, or individual to be responsible for the management and supervision of the respondent's treatment;

(f) if the order includes a requirement for inpatient treatment, the reason inpatient treatment was chosen from among other alternatives;

(g) if the order commits the respondent to the Montana mental health nursing care center, a finding that the respondent meets the admission criteria of the center and that the superintendent of the center has issued a written authorization specifying a date and time for admission;

(h) if the order provides for an evaluation to determine eligibility for entering a category D assisted living facility, a finding that indicates whether:

- (i) the respondent meets the admission criteria;
 - (ii) there is availability in a category D assisted living facility; and
 - (iii) a category D assisted living facility is the least restrictive environment because the respondent is unlikely to benefit from involuntary commitment to facilities with more intensive treatment; and
- (i) if the order includes involuntary medication, the reason involuntary medication was chosen from among other alternatives.
- (9) Any mental health evaluation report of a professional person who evaluated the respondent or patient in connection with the commitment must be filed under seal at the time of the filing of the court's order but must be made available to the mental health facility to which the respondent or patient is committed.*

53-21-127. (Effective July 1, 2025) Posttrial disposition. (1) A respondent must be discharged and the petition dismissed if, upon trial, it is determined that the respondent:

- (a) is not suffering from a mental disorder;
- (b) does not require commitment within the meaning of this part; or
- (c) is suffering from a mental disorder but the respondent's primary diagnosis is Alzheimer's disease, other forms of dementia, or traumatic brain injury and the respondent meets only the commitment criteria outlined in 53-21-126(1)(a) or (1)(d)(i)(B).

(2) If it is determined that the respondent is suffering from a mental disorder and requires commitment within the meaning of this part, the court shall hold a posttrial disposition hearing. The disposition hearing must be held within 5 days (including Saturdays, Sundays, and holidays unless the fifth day falls on a Saturday, Sunday, or holiday), during which time the court may order further evaluation and treatment of the respondent.

(3) (a) At the conclusion of the disposition hearing and pursuant to the provisions in subsection (7), the court shall:

(a)(i) subject to the provisions of 53-21-193, commit the respondent to the state hospital or to a behavioral health inpatient facility for a period of not more than 3 months;

(b)(ii) commit the respondent to a community facility, which may include a category D assisted living facility, or a community program or to any appropriate course of treatment, which may include housing or residential requirements or conditions as provided in 53-21-149, for a period of:

(i)(A) not more than 3 months; or

(ii)(B) not more than 6 months in order to provide the respondent with a less restrictive commitment in the community rather than a more restrictive placement in the state hospital if a respondent has been previously involuntarily committed for inpatient treatment in a mental health facility and the court determines that the admission of evidence of the previous involuntary commitment is relevant to the criterion of predictability, as provided in 53-21-126(1)(d), and outweighs the prejudicial effect of its admission, as provided in 53-21-190; or

(c)(iii) commit the respondent to the Montana mental health nursing care center for a period of not more than 3 months if the following conditions are met:

(i)(A) the respondent meets the admission criteria of the center as described in 53-21-411 and established in administrative rules of the department; and

(ii)(B) the superintendent of the center has issued a written authorization specifying a date and time for admission.

(b) *The court may not commit the respondent to a private mental health facility or hospital without the express consent of the facility or hospital.*

(4) Except as provided in subsection ~~(3)(b)(ii)~~ (3)(a)(ii), a treatment ordered pursuant to this section may not affect the respondent's custody or course of treatment for a period of more than 3 months.

(5) In determining which of the alternatives in subsection (3) to order, the court shall choose the least restrictive alternatives necessary to protect the respondent and the public and to permit effective treatment.

(6) The court may authorize the chief medical officer of a facility or a physician designated by the court to administer appropriate medication involuntarily if the court finds that involuntary medication is necessary to protect the respondent or the public or to facilitate effective treatment. Medication may not be involuntarily administered to a patient unless the chief medical officer of the facility or a physician designated by the court approves it prior to the beginning of the involuntary administration and unless, if possible, a medication review committee reviews it prior to the beginning of the involuntary administration or, if prior review is not possible, within 5 working days after the beginning of the involuntary administration. The medication review committee must include at least one person who is not an employee of the facility or program. The patient and the patient's attorney or advocate, if the patient has one, must receive adequate written notice of the date, time, and place of the review and must be allowed to appear and give testimony and evidence. The involuntary administration of medication must be again reviewed by the committee 14 days and 90 days after the beginning of the involuntary administration if medication is still being involuntarily administered. The mental disabilities board of visitors and the director of the department of public health and human services must be fully informed of the matter within 5 working days after the beginning of the involuntary administration. The director shall report to the governor on an annual basis.

(7) Except as provided in 53-21-126(7), satisfaction of any one of the criteria listed in 53-21-126(1) justifies commitment pursuant to this chapter. However, if the court relies solely on *any of the criterion criteria* provided in 53-21-126(1)(d), the court may require commitment only to a community facility, which may include a category D assisted living facility, or a program or an appropriate course of treatment, as provided in subsection ~~(3)(b)~~ (3)(a)(ii), and may not require commitment at the state hospital, a behavioral health inpatient facility, or the Montana mental health nursing care center.

(8) In ordering commitment pursuant to this section, the court shall *attest that the court has not relied solely on the criteria provided in 53-21-126(1)(d) and shall* make the following findings of fact:

(a) a detailed statement of the facts upon which the court found the respondent to be suffering from a mental disorder and requiring commitment;

(b) the alternatives for treatment that were considered;

(c) the alternatives available for treatment of the respondent;

(d) the reason that any treatment alternatives were determined to be unsuitable for the respondent;

(e) the name of the facility, program, or individual to be responsible for the management and supervision of the respondent's treatment;

(f) if the order includes a requirement for inpatient treatment, the reason inpatient treatment was chosen from among other alternatives;

(g) if the order commits the respondent to the Montana mental health nursing care center, a finding that the respondent meets the admission criteria of the center and that the superintendent of the center has issued a written authorization specifying a date and time for admission;

(h) if the order provides for an evaluation to determine eligibility for entering a category D assisted living facility, a finding that indicates whether:

- (i) the respondent meets the admission criteria;
 - (ii) there is availability in a category D assisted living facility; and
 - (iii) a category D assisted living facility is the least restrictive environment because the respondent is unlikely to benefit from involuntary commitment to facilities with more intensive treatment; and
- (i) if the order includes involuntary medication, the reason involuntary medication was chosen from among other alternatives.
- (9) Any mental health evaluation report of a professional person who evaluated the respondent or patient in connection with the commitment must be filed under seal at the time of the filing of the court's order but must be made available to the mental health facility to which the respondent or patient is committed."*

Section 7. Section 53-21-129, MCA, is amended to read:

"53-21-129. Emergency situation – petition – detention. (1) When an emergency situation as defined in 53-21-102 exists, a peace officer may take any person who appears to have a mental disorder and ~~to present an imminent danger of death or bodily harm to the person or to others or who appears to have a mental disorder and to be substantially unable to provide for the person's own basic needs of food, clothing, shelter, health, or safety appears to require commitment~~ into custody only for sufficient time to contact a professional person for emergency evaluation. If possible, a professional person should be called prior to taking the person into custody.

(2) If the professional person agrees that the person detained is ~~a danger to the person or to others and that in~~ an emergency situation as defined in 53-21-102 exists, then the person may be detained and treated ~~for up to 72 hours, or until the next regular business day the person can be placed at a mental health facility in accordance with subsection (4).~~ At that time, the professional person shall release the detained person or file findings with the county attorney. ~~who, if~~ If the county attorney determines probable cause ~~to exist to believe that an emergency situation exists, the county attorney shall file the petition provided for in 53-21-121 through 53-21-126 in the county of the respondent's residence. In either case, the professional person shall file a report with the court explaining the professional person's actions.~~

(3) (a) The county attorney of a county may make arrangements with a federal, state, regional, or private mental facility or with a mental health facility in a county for the detention of persons held pursuant to this section. If an arrangement has been made with a facility that does not, at the time of the emergency, have a bed available to detain the person at that facility, the person may be transported to ~~the state hospital or to a behavioral health inpatient facility~~ any other mental health facility, subject to 53-21-193 and ~~subsection (4) subsections (4) and (5) of this section, for detention and treatment as provided in this part. This determination must be made on an individual basis in each case, and the professional person at the local facility shall certify in writing to the county attorney that the facility does not have adequate room at that time.~~

(b) *A person may not be detained at a private mental health facility or hospital without the express consent of the facility or hospital.*

~~(4)(4) (a) Before a person may be transferred to the state hospital or to a behavioral health inpatient facility a mental health facility or the state hospital under this section, the state hospital or the behavioral health inpatient facility mental health facility or the state hospital must be notified prior to transfer and shall state whether a bed is available for the person and whether admission would cause the facility or the state hospital to exceed its licensed capacity. If the professional person, determines the mental health facility, and the state hospital agree that a behavioral health inpatient facility mental health facility~~

or the state hospital is the appropriate facility for the emergency detention, **and that a bed is available, and that admission will not cause the mental health facility or the state hospital to exceed its licensed capacity**, the county attorney shall direct the person to the appropriate facility to which the person must be transported for emergency detention.

(b) If the professional person, the mental health facility, and the state hospital agree that the state hospital is the appropriate facility for the emergency detention, or if the person has been involuntarily committed to the state hospital while detained at another mental health facility, and a bed is not available at the state hospital or the person's admission would cause the state hospital to exceed its licensed capacity, the state hospital shall provide the professional person and the mental health facility with a projected time when a bed may become available for the person.

(5) A person may only be placed at the state hospital under this section as a placement of last resort."

Section 8. Section 53-21-181, MCA, is amended to read:

"53-21-181. Discharge during or at end of initial commitment period – patient's right to referral. (1) (a) At any time within the period of commitment provided for in 53-21-127, the patient may be discharged on the written order of the professional person in charge of the patient without further order of the court.

(b) If the patient is not discharged within the period of commitment and if the term is not extended as provided for in 53-21-128, a patient whose commitment was to a facility other than a category D assisted living facility must be discharged by the facility at the end of the period of commitment without further order of the court.

(c) A patient who was committed to a category D assisted living facility may be discharged from supervision by the court but may remain as a resident if the category D assisted living facility and the patient agree.

(2) Notice of the discharge must be filed with the court and the county attorney at least 5 days prior to the discharge. Failure to comply with the notice requirement may not delay the discharge of the patient. *The court may not require that a discharge plan be filed with or approved by the court prior to discharge of the patient unless, pursuant to 53-21-184, the patient is being held upon an order of court or judge in a proceeding arising out of a criminal act. The department has standing on behalf of a patient in its custody to petition for dismissal of an order prohibiting the patient's discharge under 53-21-184. A hearing on the petition must be held within 5 business days.*

(3) Upon being discharged, each patient has a right to be referred, as appropriate, to other providers of mental health services."

Section 9. Section 53-21-193, MCA, is amended to read:

"53-21-193. Commitment to ~~behavioral health inpatient facilities~~ and transportation to mental health facilities – preference – voluntary treatment. (1) If a respondent is committed to the state hospital under 53-21-127, or if a person in an emergency situation requires detention under 53-21-129, and a bed is available at a *community facility, a category D assisted living facility, a community program, an appropriate course of inpatient treatment, or a behavioral health inpatient facility*, the professional person shall inform the county attorney, who shall inform the person who is responsible for transporting the individual as to the appropriate facility to which the individual is to be transported for admission. *The state hospital is the placement of last resort.*

(2) If a respondent is committed to, or an individual requires emergency detention in, *a community facility, a category D assisted living facility, a*

community program, an appropriate course of inpatient treatment, or a behavioral health inpatient facility, the facility, program, or inpatient treatment provider must be notified and the facility, program, or inpatient treatment provider shall state that a bed is available and agree to accept transfer of the patient based on admission criteria before an individual a respondent may be transferred to the behavioral health inpatient facility, program, or course of inpatient treatment under this section.

(3) A respondent who is committed to, or an individual who is transferred to, a community facility, a category D assisted living facility, a community program, an appropriate course of inpatient treatment, or a behavioral health inpatient facility may *only* be transferred to the state hospital for the remaining period of commitment *in accordance with criteria established by the department by administrative rule.* ~~in accordance with criteria established by the department by rule pursuant to 53-21-~~

(4) A court order for commitment, transport, or transfer must include the commitment, transport, or transfer authority, and all conditions or requirements imposed on the Montana state hospital contained in the court order apply *only after a transfer the transport of a respondent that complies with the requirements of this provision.*

~~(4)(5)~~ The court may not order commitment, transport, or transfer of the respondent ~~or transfer of an individual~~ to a community facility, a category D assisted living facility, a community program, an appropriate course of inpatient treatment, or a behavioral health inpatient facility under this part if a bed is not available or if the licensed capacity would be exceeded.

~~(5)(6)~~ If a bed is available, a community facility, a category D assisted living facility, a community program, an appropriate course of inpatient treatment, or a behavioral health inpatient facility may admit a person for voluntary treatment.”

Section 10. Unfunded mandate laws superseded. The provisions of [this act] expressly supersede and modify the requirements of 1-2-112 through 1-2-116.

Section 11. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 12. Effective date. [This act] is effective on passage and approval.

Approved May 12, 2025

CHAPTER NO. 609

[SB 435]

AN ACT GENERALLY REVISING LAWS RELATED TO MENTALLY ILL INDIVIDUALS; PROVIDING FOR A 72-HOUR MENTAL HEALTH HOLD; PROVIDING FOR A WAIVER OF PHYSICAL PRESENCE AT HEARINGS; AND AMENDING SECTIONS 53-21-119, 53-21-129, 53-21-132, AND 53-21-140, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. 72-hour mental health hold. (1) (a) An individual may be placed in a mental health facility as defined in 53-21-102 or a crisis stabilization facility as described in 53-21-1403 for a period up to 72 hours at the written request of a mental health professional as defined in 53-21-102 if the individual, as a result of a mental disorder, meets one or more of the following criteria:

(i) the individual is unable to provide for the individual's own basic needs of food, clothing, shelter, health, or safety;

(ii) the individual causes injury to the individual's self or to others; or

(iii) the individual is an imminent threat to the individual's self or to others.

(b) The 72-hour period begins at the time when the individual is first detained.

(c) The county attorney and the office of the state public defender must be immediately notified of the individual detained and of the facts justifying the detention.

(2) The county may authorize transportation to an appropriately licensed facility within the state if there is not an appropriate mental health facility or crisis stabilization facility within the county where the individual is located or the individual's county of residence.

(3) A mental health professional shall evaluate the individual as soon as possible after the individual is admitted for care. The evaluation must occur within the first 24 hours of the 72-hour hold.

(4) The mental health professional shall write a report of the evaluation and shall provide a copy of the report to the individual, the county attorney, and the office of the state public defender. The report must state:

(a) recommendations for further treatment, if any; and

(b) whether it is the opinion of the mental health professional that further commitment, including a petition for commitment under 53-21-121, may be necessary.

(5) During the course of the 72-hour hold, the individual may consent to take any medication to stabilize the individual's mental disorder but may not refuse any lifesaving medication considered necessary by a professional person as defined in 53-21-102.

(6) At any time during the 72-hour hold, the individual may be released if, in the opinion of the mental health professional, the individual no longer requires further treatment.

(7) On expiration of the 72-hour hold:

(a) the individual may be released with no further treatment recommendations;

(b) the individual may be referred to further care and treatment on a voluntary basis; or

(c) the county attorney may file a petition for commitment under 53-21-121.

Section 2. Section 53-21-119, MCA, is amended to read:

"53-21-119. Waiver of rights – right to counsel and right to treatment not waivable. (1) A person may waive the person's rights, or if the person is not capable of making an intentional and knowing decision, these rights may be waived by the person's counsel and friend of respondent, if a friend of respondent is appointed, acting together if a record is made of the reasons for the waiver. The right to counsel may not be waived. The right to treatment provided for in this part may not be waived.

(2) The right of the respondent to be physically present at a hearing may also be waived by the respondent's attorney and the friend of respondent with the concurrence of the professional person and the judge upon a finding supported by facts that:

(a) (i) the presence of the respondent at the hearing would be likely to seriously adversely affect the respondent's mental condition; and

(ii) an alternative location for the hearing in surroundings familiar to the respondent would not prevent the adverse effects on the respondent's mental condition; or

~~(b) the respondent has voluntarily expressed a desire to waive the respondent's presence at the hearing;~~

(1) A respondent's right to counsel and the right to treatment provided for in this part may not be waived.

(2) A respondent's procedural right to be physically present at any hearing as provided in 53-21-115(2) and 53-21-116 may be waived by the court:

(a) at the request of the respondent, on a finding supported by facts that the respondent voluntarily expresses a desire to waive the respondent's presence at the hearing;

(b) at the request of the respondent's counsel, with the concurrence of the professional person and the friend of the respondent, if any, on a finding supported by facts that the presence of the respondent at the hearing is likely to seriously adversely affect the respondent's mental health condition; or

(c) at the request of the county attorney, with the concurrence of the professional person and the friend of the respondent, if any, on a finding supported by facts that the presence of the respondent at the hearing is likely to seriously adversely affect the respondent's mental health condition.

(3) The respondent's rights may otherwise be waived:

(a) by the respondent, if the court finds the respondent is capable of making an intentional or knowing decision; or

(b) by the respondent's counsel and the friend of the respondent, if any, acting together, if a record is based on the reasons for the waiver.

~~(3)(4)~~ *(a) In the case of a minor, provided that a record is made of the reasons for the waiver, the minor's rights may be waived by the mutual consent of the minor's counsel and parents or guardian or guardian ad litem if there are no parents or guardian.*

(b) If there is an apparent conflict of interest between a minor and the minor's parents or guardian, the court shall appoint a guardian ad litem for the minor."

Section 3. Section 53-21-129, MCA, is amended to read:

"53-21-129. Emergency situation – petition – detention – exception.

(1) When an emergency situation as defined in 53-21-102 exists, a peace officer or emergency care provider as defined in 50-6-202 may take any person who appears to have a mental disorder and to present an imminent danger of death or bodily harm to the person or to others or who appears to have a mental disorder and to be substantially unable to provide for the person's own basic needs of food, clothing, shelter, health, or safety into custody only for sufficient time to contact a professional person for emergency evaluation. If possible, a professional person should be called prior to taking the person into custody.

(2) If Except as provided in subsection (5), if the professional person agrees that the person detained is a danger to the person or to others and that an emergency situation as defined in 53-21-102 exists, then the person may be detained and treated until the next regular business day. At that time, the professional person shall release the detained person or file findings with the county attorney who, if the county attorney determines probable cause to exist, shall file the petition provided for in 53-21-121 through 53-21-126 in the county of the respondent's residence. In either case, the professional person shall file a report with the court explaining the professional person's actions.

(3) The county attorney of a county may make arrangements with a federal, state, regional, or private mental facility or with a mental health facility in a county for the detention of persons held pursuant to this section. If an arrangement has been made with a facility that does not, at the time of the emergency, have a bed available to detain the person at that facility, the person may be transported to the state hospital or to a behavioral health

inpatient facility, subject to 53-21-193 and subsection (4) of this section, for detention and treatment as provided in this part. This determination must be made on an individual basis in each case, and the professional person at the local facility shall certify to the county attorney that the facility does not have adequate room at that time.

(4) Before a person may be transferred to the state hospital or to a behavioral health inpatient facility under this section, the state hospital or the behavioral health inpatient facility must be notified prior to transfer and shall state whether a bed is available for the person. If the professional person determines that a behavioral health inpatient facility is the appropriate facility for the emergency detention and a bed is available, the county attorney shall direct the person to the appropriate facility to which the person must be transported for emergency detention.

(5) If the professional person determines that the person meets the requirements for a 72-hour mental health hold prescribed in [section 1], then the requirements of [section 1] apply."

Section 4. Section 53-21-132, MCA, is amended to read:

"53-21-132. Cost of examination and commitment. (1) The cost of psychiatric precommitment examination, detention, treatment, and taking a person who is suffering from a mental disorder and who requires commitment to a mental health facility must be paid pursuant to subsection (2)(a). The sheriff must be allowed the actual expenses incurred in taking a committed person to the facility, as provided by 7-32-2144.

(2) (a) The costs of precommitment psychiatric detention, precommitment psychiatric examination, and precommitment psychiatric treatment of the respondent and any cost associated with testimony during an involuntary commitment proceeding by a professional person acting pursuant to 53-21-123 must be billed to the following entities in the listed order of priority:

(i) the respondent, the parent or guardian of a respondent who is a minor, or the respondent's private insurance carrier, if any;

(ii) a public assistance program, such as medicaid, for a qualifying respondent; or

(iii) the county of residence of the respondent in an amount not to exceed the amount paid for the service by a public assistance program.

(b) The county of residence is not required to pay costs of treatment and custody of the respondent after the respondent is committed pursuant to this part. Precommitment costs related to the use of ~~two-way~~ electronic audio-video communication in the county of commitment must be paid by the county in which the person resides at the time that the person is committed. The costs of the use of ~~two-way~~ electronic audio-video communication from the state hospital for a patient who is under a voluntary or involuntary commitment to the state hospital must be paid by the state. The fact that a person is examined, hospitalized, or receives medical, psychological, or other mental health treatment pursuant to this part does not relieve a third party from a contractual obligation to pay for the cost of the examination, hospitalization, or treatment.

(3) The adult respondent or the parent or guardian of a minor shall pay the cost of treatment and custody ordered pursuant to 53-21-127, except to the extent that the adult or minor is eligible for public mental health program funds.

(4) A community service provider that is a private, nonpublic provider may not be required to treat or treat without compensation a person who has been committed."

Section 5. Section 53-21-140, MCA, is amended to read:

“53-21-140. Use of two-way electronic audio-video communication.

(1) *A respondent's right to be present at a hearing, as provided in 53-21-115(2) and 53-21-116, is satisfied by:*

- (a) the respondent's physical appearance before the court; or*
- (b) in the discretion of the court, by electronic audio-video communication.*

(2) For purposes of this chapter,:

(a) electronic audio-video communication must allow all participants to be observed and heard simultaneously; and

(b) a hearing that is conducted by the use of two-way electronic audio-video communication, allowing all of the participants to be observed and heard by all present simultaneously, is considered to be a hearing in open court.

~~(2) Whenever the law requires that a respondent or patient in any of the hearings provided for in subsection (3) be present before a court, this requirement may, in the discretion of the court, be satisfied either by the respondent's or patient's physical appearance before the court or by two-way electronic audio-video communication. The audio-video communication must operate so that the respondent or patient, the respondent's or patient's counsel, and the judge can see each other simultaneously and converse with each other, so that the respondent or patient and the respondent's or patient's counsel can communicate privately, and so that the respondent or patient and counsel are both present during the two-way electronic audio-video communication. A respondent or patient may request that counsel from the board be present, for consulting purposes only, if the respondent or patient is located at the state hospital.~~

(3) At the discretion of the court, the following hearings may be conducted through two-way electronic audio-video communication:

- (a) the initial hearing provided for in 53-21-122;
- (b) the detention hearing provided for in 53-21-124;
- (c) the trial or hearing on a petition provided for in 53-21-126;
- (d) a hearing on posttrial disposition as provided for in 53-21-127;
- (e) a hearing on the extension of a commitment period as provided for in

53-21-128;

(f) a hearing on rehospitalization of a person conditionally released from an inpatient treatment facility as provided for in 53-21-197;

(g) a hearing on an extension of the conditions of release as provided for in 53-21-198.

~~(4) This section does not abrogate a person's rights under 53-21-115, 53-21-116, or 53-21-117. A respondent or patient, the respondent's or patient's counsel, and a friend of respondent or patient, if any, must be informed of these rights prior to a hearing by two-way electronic audio-video communication in lieu of a hearing in person. A respondent or patient or the respondent's or patient's counsel and a friend of respondent or patient, acting together, may waive any of the rights, as provided under 53-21-119.~~

(5) A two-way electronic audio-video communication may not be used:

(a) in an initial hearing provided for in 53-21-122 if the professional person objects; or

(b) in a hearing referred to in subsections (3)(b) through (3)(g) if a respondent or patient, the respondent's or patient's counsel, or the professional person objects.”

Section 6. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 53, chapter 21, part 1, and the provisions of Title 53, chapter 21, part 1, apply to [section 1].

Section 7. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Approved May 12, 2025

CHAPTER NO. 610

[SB 440]

AN ACT REQUIRING PUBLIC REPORTS OF STATEWIDE CANVASSED ELECTION RESULTS PROVIDED UNDER TITLE 13, CHAPTER 15, PART 5; PROVIDING THE INFORMATION TO BE INCLUDED IN THE REPORT; AND ESTABLISHING REPORTING REQUIREMENTS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Report of statewide canvassed election results. (1) For an election subject to a statewide canvass as provided in part 5 of this chapter, after the vote count procedures provided in 13-15-101 are completed and before the canvass required in 13-15-401 begins, the secretary of state shall design a reconciliation spreadsheet for the county election administrators, who shall then use the spreadsheet to provide the following information:

- (a) the total number of registered electors in the county;
- (b) the total number of ballots issued by type, including poll, absentee, provisional, and military-overseas;
- (c) the total number of votes cast by type, including poll, absentee, provisional, and military-overseas;
- (d) the total number of ballots accepted by type, including poll, absentee, provisional, and military-overseas;
- (e) the total number of ballots rejected by type, including poll, absentee, provisional, and military-overseas;
- (f) the total number of test ballots printed, used for testing, and counted;
- (g) the total number of electors who registered on election day; and
- (h) precinct-level information including:
 - (i) the total number of registered voters in the precinct; and
 - (ii) the total number of ballots counted in the precinct by type, including poll, absentee, provisional, and military-overseas.

(2) The spreadsheet must be posted to the county election website in a place accessible by all members of the public no later than when the board of county canvassers meets as provided in 13-15-401.

(3) A digital copy of the spreadsheet must be retained in perpetuity. A physical copy of the spreadsheet must be retained with all other records for that election in accordance with the retention schedule provided in 13-1-303.

(4) (a) The county election administrator shall submit the spreadsheet to the secretary of state no later than when the board of county canvassers meets as provided in 13-15-401.

(b) The secretary of state shall use the data submitted by the counties to prepare a comprehensive reconciliation report at least 7 days prior to the certification of the election results by the board of state canvassers.

(c) If, in the process of preparing the comprehensive reconciliation report, the secretary of state discovers discrepancies within a county's results, the secretary of state shall immediately address it with the county election administrator, the county governing body, and legislative leadership for the purpose of correcting errors and reconciling discrepancies by whatever action is deemed appropriate.

(5) As soon as the report required in subsection (4) is available, the secretary of state shall:

(a) submit the report to the legislative services division, in accordance with 5-11-210, for distribution to all members of the legislature;

(b) post the report to the statewide election website in a place accessible by all members of the public; and

(c) present the report to the state administration and veterans' affairs interim committee at the first meeting after a statewide or federal primary or general election.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 13, chapter 15, part 1, and the provisions of Title 13, chapter 15, part 1, apply to [section 1].

Approved May 12, 2025

CHAPTER NO. 611

[SB 446]

AN ACT REVISING LAWS RELATED TO HEALTH UTILIZATION REVIEW; REQUIRING A PHYSICIAN LICENSED IN THE STATE TO MAKE OR REVIEW AN ADVERSE DETERMINATION OR REVIEW A GRIEVANCE; AND AMENDING SECTION 33-32-221, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Qualifications of individuals who make or review adverse determinations. (1) Only a physician may make an adverse determination pursuant to 33-32-211 or 33-32-212 for a utilization review organization.

(2) A physician who makes an adverse determination:

(a) must possess a current, valid nonrestricted license to practice medicine;

(b) must have a specialty that focuses on the diagnosis and treatment of the condition being reviewed; and

(c) shall make the adverse determination under the clinical direction of one of the utilization review organization's medical directors who is responsible for the oversight of the utilization review activities. A medical director used for this purpose must be a physician licensed in the state.

Section 2. Qualifications of individuals who review grievance.

(1) Only a physician may review a grievance as provided under 33-32-308 or 33-32-309 for a utilization review organization.

(2) A physician who reviews a grievance:

(a) must possess a current, valid nonrestricted license to practice medicine;

(b) must have the same specialty as a health care provider who typically manages the medical condition or disease or provides the health care service that is the subject of the grievance;

(c) must have experience treating patients with the medical condition or disease that is the subject of the grievance; and

(d) shall review the grievance under the clinical direction of one of the utilization review organization's medical directors who is responsible for the oversight of the utilization review activities. A medical director used for this purpose must be a physician licensed in the state.

(3) A physician who reviews a grievance may not:

(a) have been directly involved in making the adverse determination that is the subject of the grievance; and

(b) have a financial interest in the outcome of the grievance.

Section 3. Section 33-32-221, MCA, is amended to read:

“33-32-221. Prior authorization requirements. (1) A health insurance issuer may not perform prior authorization on benefits for:

(a) any generic prescription drug that is not listed within any of the schedules of controlled substances found at 21 CFR 1308.11 through 21 CFR 1308.15 or the schedules of controlled substances found in Title 50, chapter 32, after a covered person has been prescribed the covered drug at the same quantity without interruption for 6 months;

(b) any prescription drug or drugs, generic or brand name, on the grounds of therapeutic duplication for the same drug if the covered person has already been subject to prior authorization on the grounds of therapeutic duplication for the same dosage of the prescription drug or drugs and coverage of the prescription drug or drugs was approved;

(c) any prescription drug, generic or brand name, solely because the dosage of the medication for the covered person has been adjusted by the prescriber of the prescription drug, as long as the dosage is within the dosage approved by the food and drug administration or is consistent with clinical dosing for the medication; ~~or~~

(d) any prescription drug, generic or brand name, prescribed for treatment of a substance use disorder, provided that the drug is approved by the U.S. food and drug administration for treatment of substance use disorder and the prescription does not exceed the U.S. food and drug administration labeled dosages; or

~~(d)~~(e) any prescription drug, generic or brand name, that is a long-acting injectable antipsychotic.

(2) Any adverse determination for a prescription drug made during prior authorization by a health insurance issuer must be made by a physician whose specialty focuses on the diagnosis and treatment of the condition for which the prescription drug was prescribed to treat, provided that prior authorization that does not result in an adverse determination does not require the involvement of a physician on the part of a health insurance issuer.”

Section 4. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 33, chapter 32, part 2, and the provisions of Title 33, chapter 32, part 2, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 33, chapter 32, part 3, and the provisions of Title 33, chapter 32, part 3, apply to [section 2].

Section 5. Coordination instruction. If both House Bill No. 398 and [this act] are passed and approved, then [sections 1 and 2 of this act] are void.

Approved May 12, 2025

CHAPTER NO. 612

[SB 447]

AN ACT REVISING LAWS RELATED TO PRIOR AUTHORIZATION; EXTENDING THE LENGTH OF A PRIOR AUTHORIZATION CERTIFICATION; PROVIDING THAT A PRIOR AUTHORIZATION FOR TREATMENT OF A CHRONIC CONDITION IS VALID FOR THE DURATION OF THE CONDITION; PROHIBITING PRIOR AUTHORIZATION FOR CERTAIN PRESCRIPTIONS; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 33-32-102, 33-32-107, AND 33-32-221, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-32-102, MCA, is amended to read:

“33-32-102. Definitions. As used in this chapter, the following definitions apply:

(1) “Adverse determination”, except as provided in 33-32-402, means:

(a) a determination by a health insurance issuer or its designated utilization review organization that, based on the provided information and after application of any utilization review technique, a requested benefit under the health insurance issuer’s health plan is denied, reduced, or terminated or that payment is not made in whole or in part for the requested benefit because the requested benefit does not meet the health insurance issuer’s requirement for medical necessity, appropriateness, health care setting, level of care, or level of effectiveness or is determined to be experimental or investigational;

(b) a denial, reduction, termination, or failure to provide or make payment in whole or in part for a requested benefit based on a determination by a health insurance issuer or its designated utilization review organization of a person’s eligibility to participate in the health insurance issuer’s health plan;

(c) any prospective review or retrospective review of a benefit determination that denies, reduces, or terminates or fails to provide or make payment in whole or in part for a benefit; or

(d) a rescission of coverage determination.

(2) “Ambulatory review” means a utilization review of health care services performed or provided in an outpatient setting.

(3) “Authorized representative” means:

(a) a person to whom a covered person has given express written consent to represent the covered person;

(b) a person authorized by law to provide substituted consent for a covered person; or

(c) a family member of the covered person, or the covered person’s treating health care provider, only if the covered person is unable to provide consent.

(4) “Case management” means a coordinated set of activities conducted for individual patient management of serious, complicated, protracted, or otherwise complex health conditions.

(5) “Certification” means a determination by a health insurance issuer or its designated utilization review organization that an admission, availability of care, continued stay, or other health care service has been reviewed and, based on the information provided, satisfies the health insurance issuer’s requirements for medical necessity, appropriateness, health care setting, level of care, and level of effectiveness.

(6) “Chronic condition” means a condition that lasts 1 year or more and requires ongoing medical attention or limits activities of daily living.

(6)(7) “Clinical peer” means a physician or other health care provider who:

(a) holds a nonrestricted license in a state of the United States; and

(b) is trained or works in the same or a similar specialty to the specialty that typically manages the medical condition, procedure, or treatment under review.

(7)(8) “Clinical review criteria” means the written policies, written screening procedures, decision abstracts, determination rules, clinical and medical protocols, practice guidelines, or any other criteria or rationale used by a health insurance issuer or its designated utilization review organization to determine the medical necessity of health care services.

(8)(9) “Concurrent review” means a utilization review conducted during a patient’s stay or course of treatment in a facility, the office of a health care professional, or another inpatient or outpatient health care setting.

(9)(10) “Cost sharing” means the share of costs that a covered member pays under the health insurance issuer’s health plan, including maximum out-of-pocket, deductibles, coinsurance, copayments, or similar charges, but does not include premiums, balance billing amounts for out-of-network providers, or the cost of noncovered services.

(10)(11) “Covered benefits” or “benefits” means those health care services to which a covered person is entitled under the terms of a health plan.

(11)(12) “Covered person” means a policyholder, a certificate holder, a member, a subscriber, an enrollee, or another individual participating in a health plan.

(12)(13) “Discharge planning” means the formal process for determining, prior to discharge from a facility, the coordination and management of the care that a patient receives after discharge from a facility.

(13)(14) “Emergency medical condition” has the meaning provided in 33-36-103.

(14)(15) “Emergency services” has the meaning provided in 33-36-103.

(15)(16) “External review” describes the set of procedures provided for in Title 33, chapter 32, part 4.

(16)(17) “Final adverse determination” means an adverse determination involving a covered benefit that has been upheld by a health insurance issuer or its designated utilization review organization at the completion of the health insurance issuer’s internal grievance process as provided in Title 33, chapter 32, part 3.

(17)(18) “Grievance” means a written complaint or an oral complaint if the complaint involves an urgent care request submitted by or on behalf of a covered person regarding:

(a) availability, delivery, or quality of health care services, including a complaint regarding an adverse determination made pursuant to utilization review;

(b) claims payment, handling, or reimbursement for health care services; or

(c) matters pertaining to the contractual relationship between a covered person and a health insurance issuer.

(18)(19) “Health care provider” or “provider” means a person, corporation, facility, or institution licensed by the state to provide, or otherwise lawfully providing, health care services, including but not limited to:

(a) a physician, physician assistant, advanced practice registered nurse, health care facility as defined in 50-5-101, osteopath, dentist, nurse, optometrist, chiropractor, podiatrist, physical therapist, psychologist, licensed social worker, speech pathologist, audiologist, licensed addiction counselor, or licensed professional counselor; and

(b) an officer, employee, or agent of a person described in subsection (18)(a) acting in the course and scope of employment.

(19)(20) “Health care services” means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease, including the provision of pharmaceutical products or services or durable medical equipment.

(20)(21) “Health insurance issuer” has the meaning provided in 33-22-140.

(21)(22) “Medical necessity” means health care services that a health care provider exercising prudent clinical judgment would provide to a patient for the purpose of preventing, evaluating, diagnosing, treating, curing, or relieving a health condition, *chronic condition*, illness, injury, or disease or its symptoms or *comorbidities*, including *minimizing the progression, symptoms, or comorbidities of a health condition, chronic condition, illness, injury, or disease*, and that are:

(a) in accordance with generally accepted standards of practice;

(b) clinically appropriate in terms of type, frequency, extent, site, and duration and are considered effective for the patient's illness, injury, or disease; and

(c) not primarily for the *economic benefit of the insurer* or convenience of the patient or health care provider and not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the patient's illness, injury, or disease.

(22)(23) "Network" means the group of participating providers providing services to a managed care plan.

(23)(24) "Participating provider" means a health care provider who, under a contract with a health insurance issuer or with its contractor or subcontractor, has agreed to provide health care services to covered persons with the expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly or indirectly from the health insurance issuer.

(24)(25) "Person" means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, or any similar entity or combination of entities in this subsection.

(25)(26) "Preservice claim" means a request for benefits or payment from a health insurance issuer for health care services that, under the terms of the health insurance issuer's contract of coverage, requires authorization from the health insurance issuer or from the health insurance issuer's designated utilization review organization prior to receiving the services.

(26)(27) "Prospective review" means a utilization review, *medical necessity review*, or *prior authorization* conducted of a preservice claim prior to an admission or a course of treatment.

(27)(28) (a) "Rescission" means a cancellation or the discontinuance of coverage under a health plan that has a retroactive effect.

(b) The term does not include a cancellation or discontinuance under a health plan if the cancellation or discontinuance of coverage:

(i) has only a prospective effect; or

(ii) is effective retroactively to the extent that the cancellation or discontinuance is attributable to a failure to timely pay required premiums or contributions toward the cost of coverage.

(28)(29) (a) "Retrospective review" means a review of medical necessity conducted after services have been provided to a covered person.

(b) The term does not include the review of a claim that is limited to an evaluation of reimbursement levels, veracity of documentation, accuracy of coding, or adjudication for payment.

(29)(30) "Second opinion" means an opportunity or requirement to obtain a clinical evaluation by a health care provider other than the one originally making a recommendation for a proposed health care service to assess the clinical necessity and appropriateness of the initial proposed health care service.

(30)(31) "Stabilize" means, with respect to an emergency condition, to ensure that no material deterioration of the condition is, within a reasonable medical probability, likely to result from or occur during the transfer of the individual from a facility.

(31)(32) (a) "Urgent care request" means a request for a health care service or course of treatment with respect to which the time periods for making a nonurgent care request determination could:

(i) seriously jeopardize the life or health of the covered person or the ability of the covered person to regain maximum function; or

(ii) subject the covered person, in the opinion of a health care provider with knowledge of the covered person's medical condition, to severe pain that cannot be adequately managed without the health care service or treatment that is the subject of the request.

(b) Except as provided in subsection ~~(31)(c)~~ (32)(c), in determining whether a request is to be treated as an urgent care request, an individual acting on behalf of the health insurance issuer shall apply the judgment of a prudent lay person who possesses an average knowledge of health and medicine.

(c) Any request that a health care provider with knowledge of the covered person's medical condition determines is an urgent care request within the meaning of subsection ~~(31)(a)~~ (32)(a) must be treated as an urgent care request.

~~(32)~~(33) "Utilization review" means a set of formal techniques designed to monitor the use of or to evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures, or settings. Techniques may include ambulatory review, prospective review, second opinions, certification, concurrent review, case management, discharge planning, or retrospective review.

~~(33)~~(34) "Utilization review organization" means an entity that conducts utilization review for one or more of the following:

(a) an employer with employees who are covered under a health benefit plan or health insurance policy;

(b) a health insurance issuer providing review for its own health plans or for the health plans of another health insurance issuer;

(c) a preferred provider organization or health maintenance organization; and

(d) any other individual or entity that provides, offers to provide, or administers hospital, outpatient, medical, or other health benefits to a person treated by a health care provider under a policy, plan, or contract."

Section 2. Section 33-32-107, MCA, is amended to read:

"33-32-107. Length of prior authorization. (1) *Except as provided in subsection (2), certification by a utilization review organization approving health care services is valid for at least 3 12 months from the date the health care provider receives the certification unless the covered person loses coverage under the applicable health plan or health insurance coverage.*

(2) *A certification by a utilization review organization approving a health care service for treatment of a chronic condition is valid for the duration of the condition. The utilization review organization may not require the covered person to obtain certification again for the same health care service. The utilization review organization may require documentation that the chronic condition remains present no more frequently than every 12 months."*

Section 3. Section 33-32-221, MCA, is amended to read:

"33-32-221. Prior authorization requirements. (1) *A health insurance issuer or an entity that it contracts with to perform prior authorization on its behalf may not perform prior authorization on benefits for:*

(a) any generic prescription drug that is not listed within any of the schedules of controlled substances found at 21 CFR 1308.11 through 21 CFR 1308.15 or the schedules of controlled substances found in Title 50, chapter 32, after a covered person has been prescribed the covered drug at the same quantity without interruption for 6 months;

(b) any prescription drug or drugs, generic or brand name, on the grounds of therapeutic duplication for the same drug if the covered person has already been subject to prior authorization on the grounds of therapeutic duplication for the same dosage of the prescription drug or drugs and coverage of the prescription drug or drugs was approved;

(c) any prescription drug, generic or brand name, solely because the dosage of the medication for the covered person has been adjusted by the prescriber of the prescription drug, as long as the dosage is within the dosage approved by the food and drug administration or is consistent with clinical dosing for the medication; **or**

(d) any prescription drug, generic or brand name, that is a long-acting injectable antipsychotic *and any formulary oral or inhaled nonbiologic generic prescription drug that is not listed as a specialty tier drug by Medicare Part D, or within any of the schedules of controlled substances found at 21 CFR 1308.11 through 21 CFR 1308.15 or the schedules of controlled substances found in Title 50, chapter 32;*

(e) *any prescription drug, generic or brand name, prescribed for treatment of a substance use disorder, provided that the prescription does not exceed the U.S. food and drug administration labeled dosages; or*

(f) *at least one prescription drug option appropriate for children and one appropriate for adults, within each of the following prescription drug therapeutic classes, generic or brand name:*

(i) an inhaled corticosteroid;

(ii) an inhaled short-acting beta-agonist;

(iii) an inhaled combination corticosteroid and beta-agonist;

(iv) a short-acting insulin for diabetes; or

(v) a long-acting insulin for diabetes.

(3) *If the health insurance issuer or its utilization review organization makes an adverse determination for a prescription drug during prior authorization, the health insurance issuer or its utilization review organization shall provide a written adverse determination notice that includes a list of reasonable therapeutic alternatives that are covered by the insurer's formulary.*

(2)(4) Any adverse determination for a prescription drug made during prior authorization by a health insurance issuer must be made by a physician whose specialty focuses on the diagnosis and treatment of the condition for which the prescription drug was prescribed to treat, provided that prior authorization that does not result in an adverse determination does not require the involvement of a physician on the part of a health insurance issuer."

Section 4. Coordination instruction. If both House Bill No. 398 and [this act] are passed and approved and if both contain a section that amends 33-22-102, then the sections amending 33-22-102 are void and 33-22-102 must be amended as follows:

"33-32-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Adverse determination", except as provided in 33-32-402, means:

(a) a determination by a health insurance issuer or its designated utilization review organization that, based on the provided information and after application of any utilization review technique, a requested benefit under the health insurance issuer's health plan is denied, reduced, or terminated or that payment is not made in whole or in part for the requested benefit because the requested benefit does not meet the health insurance issuer's requirement for medical necessity, appropriateness, health care setting, level of care, or level of effectiveness or is determined to be experimental or investigational;

(b) a denial, reduction, termination, or failure to provide or make payment in whole or in part for a requested benefit based on a determination by a health insurance issuer or its designated utilization review organization of a person's eligibility to participate in the health insurance issuer's health plan;

(c) any prospective review or retrospective review of a benefit determination that denies, reduces, or terminates or fails to provide or make payment in whole or in part for a benefit; or

(d) a rescission of coverage determination.

(2) "Ambulatory review" means a utilization review of health care services performed or provided in an outpatient setting.

(3) "Authorized representative" means:

(a) a person to whom a covered person has given express written consent to represent the covered person;

(b) a person authorized by law to provide substituted consent for a covered person; or

(c) a family member of the covered person, or the covered person's treating health care provider, only if the covered person is unable to provide consent.

(4) "Case management" means a coordinated set of activities conducted for individual patient management of serious, complicated, protracted, or otherwise complex health conditions.

(5) "Certification" means a determination by a health insurance issuer or its designated utilization review organization that an admission, availability of care, continued stay, or other health care service has been reviewed and, based on the information provided, satisfies the health insurance issuer's requirements for medical necessity, appropriateness, health care setting, level of care, and level of effectiveness.

(6) "*Chronic condition*" means a condition that lasts 1 year or more and that requires ongoing medical attention or limits activities of daily living.

(6)(7) "Clinical peer" means a physician or other health care provider who:

(a) holds a nonrestricted license in a state of the United States; and

(b) is trained or works in the same or a similar specialty to the specialty that typically manages the medical condition, procedure, or treatment under review.

(7)(8) "Clinical review criteria" means the written policies, written screening procedures, decision abstracts, determination rules, clinical and medical protocols, practice guidelines, or any other criteria or rationale used by a health insurance issuer or its designated utilization review organization to determine the medical necessity of health care services.

(8)(9) "Concurrent review" means a utilization review conducted during a patient's stay or course of treatment in a facility, the office of a health care professional, or another inpatient or outpatient health care setting.

(9)(10) "Cost sharing" means the share of costs that a covered member pays under the health insurance issuer's health plan, including maximum out-of-pocket, deductibles, coinsurance, copayments, or similar charges, but does not include premiums, balance billing amounts for out-of-network providers, or the cost of noncovered services.

(10)(11) "Covered benefits" or "benefits" means those health care services to which a covered person is entitled under the terms of a health plan.

(11)(12) "Covered person" means a policyholder, a certificate holder, a member, a subscriber, an enrollee, or another individual participating in a health plan.

(12)(13) "Discharge planning" means the formal process for determining, prior to discharge from a facility, the coordination and management of the care that a patient receives after discharge from a facility.

(13)(14) "Emergency medical condition" has the meaning provided in 33-36-103.

(14)(15) "Emergency services" has the meaning provided in 33-36-103.

(15)(16) “External review” describes the set of procedures provided for in Title 33, chapter 32, part 4.

(16)(17) “Final adverse determination” means an adverse determination involving a covered benefit that has been upheld by a health insurance issuer or its designated utilization review organization at the completion of the health insurance issuer’s internal grievance process as provided in Title 33, chapter 32, part 3.

(17)(18) “Grievance” means a written complaint or an oral complaint if the complaint involves an urgent care request submitted by or on behalf of a covered person regarding:

(a) availability, delivery, or quality of health care services, including a complaint regarding an adverse determination made pursuant to utilization review;

(b) claims payment, handling, or reimbursement for health care services; or

(c) matters pertaining to the contractual relationship between a covered person and a health insurance issuer.

(18)(19) “Health care provider” or “provider” means a person, corporation, facility, or institution licensed by the state to provide, or otherwise lawfully providing, health care services, including but not limited to:

(a) a physician, physician assistant, advanced practice registered nurse, health care facility as defined in 50-5-101, osteopath, dentist, nurse, optometrist, chiropractor, podiatrist, physical therapist, psychologist, licensed social worker, speech pathologist, audiologist, licensed addiction counselor, or licensed professional counselor; and

(b) an officer, employee, or agent of a person described in subsection (18)(a) acting in the course and scope of employment.

(19)(20) “Health care services” means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease, including the provision of pharmaceutical products or services or durable medical equipment.

(20)(21) “Health insurance issuer” has the meaning provided in 33-22-140.

(21)(22) “Medical necessity” means health care services that a health care provider exercising prudent clinical judgment would provide to a patient for the purpose of preventing, evaluating, diagnosing, treating, curing, or relieving a health condition, *chronic condition*, illness, injury, or disease or its symptoms or comorbidities, including minimizing the progression, symptoms, or *comorbidities of a health condition, chronic condition, illness, injury, or disease*, and that are:

(a) in accordance with generally accepted standards of practice;

(b) clinically appropriate in terms of type, frequency, extent, site, and duration and are considered effective for the patient’s illness, injury, or disease; and

(c) not primarily for the *economic benefit of the insurer or the convenience* of the patient or health care provider and not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the patient’s illness, injury, or disease.

(22)(23) “Network” means the group of participating providers providing services to a managed care plan.

(23)(24) “Participating provider” means a health care provider who, under a contract with a health insurance issuer or with its contractor or subcontractor, has agreed to provide health care services to covered persons with the expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly or indirectly from the health insurance issuer.

(24)(25) “Person” means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, or any similar entity or combination of entities in this subsection.

(25)(26) “Preservice claim” means a request for benefits or payment from a health insurance issuer for health care services that, under the terms of the health insurance issuer’s contract of coverage, requires authorization from the health insurance issuer or from the health insurance issuer’s designated utilization review organization prior to receiving the services.

(26)(27) “Prospective review” means a utilization review, *medical necessity review*, or *prior authorization* conducted of a preservice claim prior to an admission or a course of treatment.

(27)(28) (a) “Rescission” means a cancellation or the discontinuance of coverage under a health plan that has a retroactive effect.

(b) The term does not include a cancellation or discontinuance under a health plan if the cancellation or discontinuance of coverage:

(i) has only a prospective effect; or

(ii) is effective retroactively to the extent that the cancellation or discontinuance is attributable to a failure to timely pay required premiums or contributions toward the cost of coverage.

(28)(29) (a) “Retrospective review” means a review of medical necessity conducted after services have been provided to a covered person.

(b) The term does not include the review of a claim that is limited to an evaluation of reimbursement levels, veracity of documentation, accuracy of coding, or adjudication for payment.

(29)(30) “Second opinion” means an opportunity or requirement to obtain a clinical evaluation by a health care provider other than the one originally making a recommendation for a proposed health care service to assess the clinical necessity and appropriateness of the initial proposed health care service.

(30)(31) “Stabilize” means, with respect to an emergency condition, to ensure that no material deterioration of the condition is, within a reasonable medical probability, likely to result from or occur during the transfer of the individual from a facility.

(31)(32) (a) “Urgent care request” means a request for a health care service or course of treatment with respect to which the time periods for making a nonurgent care request determination could:

(i) seriously jeopardize the life or health of the covered person or the ability of the covered person to regain maximum function; or

(ii) subject the covered person, in the opinion of a health care provider with knowledge of the covered person’s medical condition, to severe pain that cannot be adequately managed without the health care service or treatment that is the subject of the request.

(b) Except as provided in subsection (31)(c) (32)(c), in determining whether a request is to be treated as an urgent care request, an individual acting on behalf of the health insurance issuer shall apply the judgment of a prudent lay person who possesses an average knowledge of health and medicine.

(c) Any request that a health care provider with knowledge of the covered person’s medical condition determines is an urgent care request within the meaning of subsection (31)(a) (32)(a) must be treated as an urgent care request.

(32)(33) “Utilization review” means a set of formal techniques designed to monitor the use of or to evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures, or settings. Techniques may include ambulatory review, prospective review, second opinions, certification, concurrent review, case management, discharge planning, or retrospective review.

(33)(34) "Utilization review organization" means an entity that conducts utilization review for one or more of the following:

(a) an employer with employees who are covered under a health benefit plan or health insurance policy;

(b) a health insurance issuer providing review for its own health plans or for the health plans of another health insurance issuer;

(c) a preferred provider organization or health maintenance organization; and

(d) any other individual or entity that provides, offers to provide, or administers hospital, outpatient, medical, or other health benefits to a person treated by a health care provider under a policy, plan, or contract."

Section 5. Coordination instruction. (1) If both House Bill 398 and [this act] are passed and approved and if both contain a section that amends 33-22-107, then [section 2 of this act], amending 33-32-107, is void.

(2) If both House Bill No. 399 and [this act] are passed and approved and if both contain a section that amends 33-22-221, then [section 3 of this act], amending 33-22-221, is void.

Approved May 12, 2025

CHAPTER NO. 613

[SB 468]

AN ACT PROVIDING FOR A STATEWIDE CENTRAL REGISTRY FOR SUBSTANTIATED REPORTS OF CHILD ABUSE OR NEGLECT; ESTABLISHING PROCEDURES FOR EXPUNGEMENT FROM THE CENTRAL REGISTRY; PROVIDING DEFINITIONS; ESTABLISHING REPORTING REQUIREMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the 5th and 14th Amendments to the United States Constitution prohibit governments from depriving individuals of their liberty or property interests without due process of the law; and

WHEREAS, this state has established procedures for collecting and maintaining child abuse and neglect investigation records in a central registry that includes the identities of individuals alleged to have abused or neglected a child; and

WHEREAS, the names maintained in Montana's central registry may be disclosed to certain third parties in the course of background checks related to an individual's employment, licensure, and volunteer activities; and

WHEREAS, the disclosures may have a significant negative impact on an individual's liberty and property interests, including the loss or denial of employment and the loss of reputation in the community; and

WHEREAS, the Legislature wishes to ensure that this state's procedures for listing individuals on the central registry comport with constitutional due process requirements.

Be it enacted by the Legislature of the State of Montana:

Section 1. Central registry -- purpose -- determinations.

(1) There is established a statewide central registry to maintain information on individuals who are the subject of substantiated determinations of child abuse or neglect. The information may be made available during a background check of an individual as provided for in 41-3-205 and may affect the individual's ability to volunteer or obtain employment or licensure in areas in which the individual may have unsupervised contact with children, such as child care, foster care, or group home care.

(2) For the purposes of [sections 1 and 2], a determination of child abuse or neglect must be categorized according to the following definitions:

(a) (i) “Substantiated” means that the department has investigated the reported act of child abuse or neglect and determined by a preponderance of the evidence that an act of child abuse or neglect occurred.

(ii) The subject of a substantiated determination may be added to the central registry and must be notified of the consequences of being listed in the central registry, as well as the subject’s rights and procedures for requesting expungement from the central registry.

(b) “Unfounded” means that the department has investigated the reported act of child abuse or neglect and there is no evidence to corroborate the report.

(c) “Unsubstantiated” means that the department has investigated the reported act of child abuse or neglect and is unable to determine by a preponderance of the evidence that an act of child abuse or neglect occurred.

Section 2. Expungement from central registry – report to legislature. (1) An individual listed in the central registry may request to have the individual’s name expunged from the central registry by submitting a written request to the department accompanied by an affidavit sworn to by a person with personal knowledge stating facts sufficient to show that there is good cause for expungement. Good cause includes but is not limited to:

(a) newly discovered evidence that a substantiated report of child abuse or neglect is inaccurate;

(b) evidence that the requester no longer poses a risk and that no significant public purpose is served by continued listing of the requester in the state’s central registry;

(c) evidence that the underlying case on which the substantiated determination was based was closed or dismissed, resulting in reunification, and the requester no longer poses a risk to children;

(d) evidence that circumstances that contributed to the finding of abuse or neglect no longer exist; or

(e) evidence that actions taken by the requester since the incident of abuse or neglect prevent the reoccurrence of abuse or neglect.

(2) (a) An administrator of the department shall review the request within 30 days of receiving the request and determine whether to grant the request.

(b) If the request is granted, the department shall expunge the requester’s name from the central registry within 30 days and shall:

(i) destroy any written electronic or hardcopy records of the department related to the requester’s substantiation determination; and

(ii) notify the requester and other entities, if appropriate, that the expungement process has been completed.

(c) If the request is denied, the department shall notify the requester in writing within 30 days and shall notify the requester of the right to petition the district court for expungement under subsection (3).

(3) (a) An individual whose written request for expungement has been denied by the department pursuant to subsection (2) may petition the district court in the county in which the individual resides, requesting that the court expunge the individual’s name from the central registry. The petition must name the department as a respondent and must be accompanied by an affidavit sworn to by a person with personal knowledge stating facts sufficient to show that there is good cause for expungement as provided in subsection (1).

(b) The court shall hold a hearing on the petition and any response provided by the department unless a hearing is waived by agreement of the parties. At the hearing, the petitioner must be afforded an opportunity to present evidence supporting the petitioner’s request for expungement.

(c) If the court finds that the petitioner has established good cause for expunging the petitioner's name from the central registry, the court shall grant the petition and shall order the department to:

- (i) expunge the petitioner's name from the central registry within 30 days;
- (ii) destroy any written, electronic, or hardcopy records of the department related to the petitioner's substantiation determination; and
- (iii) notify the petitioner, the court, and other entities, if appropriate, that the expungement process has been completed.

(4) An individual who is listed in the central registry shall wait 2 years from the date of the original substantiation determination before requesting expungement.

(5) If an individual's request for expungement under this section is denied, the individual shall wait 2 years before submitting another request for expungement.

(6) (a) An individual listed in the state's central registry prior to [the effective date of this act] may request to have the individual's name expunged from the central registry by following the procedures described in this section.

(b) The department shall notify all individuals listed in the central registry on [the effective date of this act] of the right to request expungement under this section.

(7) Procedures for the expungement of central registry records, as well as updated phone numbers, addresses, and other contact information for the district court and other relevant parties, must be accessible to the public online and posted in a place that is open for public viewing in child and family services offices.

(8) Nothing in this section constitutes a waiver of any right or remedy otherwise available to an individual seeking expungement under this section.

(9) By September 1 of each year, the department shall report to the children, families, health, and human services interim committee in accordance with 5-11-210 on the following:

- (a) the total number of individuals listed in the registry;
- (b) the number of individuals added to the registry in the past calendar year;
- (c) the number of individuals who requested expungement from the registry in the past calendar year, including the number of:
 - (i) first-time expungement requests submitted pursuant to subsection (4); and
 - (ii) second or subsequent requests submitted pursuant to subsection (5);
- (d) the number of expungement requests granted in the past calendar year, including the number of granted expungement requests that are:
 - (i) first-time requests pursuant to subsection (4); and
 - (ii) second or subsequent requests submitted pursuant to subsection (5);
- and
- (e) the number of expungement requests denied in the past calendar year, including:
 - (i) the number of denied expungement requests that are:
 - (A) first-time requests pursuant to subsection (4); and
 - (B) second or subsequent requests pursuant to subsection (5); and
 - (ii) the reason for each denied expungement request.

Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as a new part in Title 41, chapter 3, and the provisions of Title 41, chapter 3, apply to [sections 1 and 2].

Section 4. Effective date. [This act] is effective July 1, 2025.

Approved May 12, 2025

CHAPTER NO. 614

[SB 492]

AN ACT GENERALLY REVISING THE BUSINESS DISCLOSURE STATEMENT REQUIREMENTS FOR STATEWIDE OR STATE DISTRICT ELECTED OFFICIALS, CANDIDATES FOR STATEWIDE OR STATE DISTRICT OFFICES, DEPARTMENT DIRECTORS, AND INDIVIDUALS APPOINTED TO FILL THOSE POSITIONS; AND AMENDING SECTION 2-2-106, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-2-106, MCA, is amended to read:

“2-2-106. Disclosure. (1) (a) Prior to December 15 of each even-numbered year, each state officer, holdover senator, supreme court justice, and district court judge shall file with the commissioner of political practices a business disclosure statement on a form provided by the commissioner. An individual filing pursuant to subsection (1)(b) or (1)(c) is not required to file under this subsection (1)(a) during the same period.

(b) Each candidate for a statewide or a state office elected from a district shall, within 5 5 days of the time that the candidate files for office, file a business disclosure statement with the commissioner of political practices on a form provided by the commissioner.

(c) An individual appointed to office who would be required to file under subsection (1)(a) or (1)(b) is required to file the business disclosure statement at the earlier of the time of submission of the person’s name for confirmation or the assumption of the office.

(2) Except as provided in subsection (4), the statement must provide the following information:

(a) the name, address, and type of business of the individual;

(b) each present or past employing entity from which benefits, including retirement benefits, are currently received by the individual;

(c) each business, firm, corporation, partnership, and other business or professional entity or trust in which the individual holds ~~an~~ *more than a 10% interest, or if the company is publicly traded, more than a 1% interest;*

(d) each entity not listed under subsections (2)(a) through (2)(c) in which the individual is an officer or director, regardless of whether or not the entity is organized for profit; and

(e) all real property, other than a personal residence, in which the individual holds ~~an~~ *more than a 10% interest*. Real property may be described by general description.

(3) *Disclosure of mutual funds under subsection (2) is not required.*

(4) An individual may not assume or continue to exercise the powers and duties of the office to which that individual has been elected or appointed until the statement has been filed as provided in subsection (1).

~~(4)~~(5) An individual required to file a business disclosure statement may certify that the information required by subsection (2) has not changed from the most recent statement filed by the individual. The commissioner shall provide a certification form.

~~(5)~~(6) The commissioner of political practices shall make the business disclosure statements and certification forms available to any individual upon request.”

Approved May 12, 2025